

FOUNDED 1886

# LIBERTY

WASHINGTON  
D. C.

A MAGAZINE OF RELIGIOUS FREEDOM



FREEDOM  
OF CONSCIENCE

# DECLARATION OF PRINCIPLES

*Religious Liberty Association*

We believe in God, in the Bible as the word of God, and in the separation of church and state as taught by Jesus Christ; namely, that the church and the state have been placed side by side, each to work in its respective sphere. (Matt. 22:21; John 18:36.)

We believe that the Ten Commandments are the law of God, and that they comprehend man's whole duty to God and man.

We believe that the religion of Jesus Christ is comprehended in the principle of love to God and love to our fellowman, and thus this religion needs no human power to support or enforce it. Love cannot be forced.

We believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights, and to rule in civil things, and that in this realm it is entitled to the respectful and willing obedience of all.

We believe it is the right and should be the privilege of every individual to worship or not to worship, or to change or not to change his religion, according to the dictates of his own conscience, but that in the exercise of this right he should respect the equal rights of others.

We believe that all legislation which unites church and state is subversive of human rights, potentially persecuting in character, and opposed to the best interests of the church and of the state; and therefore, that it is not within the province of human government to enact such legislation.

We believe it to be our duty to use every lawful and honorable means to prevent the enactment of legislation which tends to unite church and state, and to oppose every movement toward such union, that all may enjoy the inestimable blessings of religious liberty.

We believe in the individual's natural and inalienable right of freedom of conscience, and the right to profess, to practice, and to promulgate his religious beliefs; holding that these are the essence of religious liberty.

We believe that these liberties are embraced in the golden rule, which says, "Whatsoever ye would that men should do to you, do ye even so to them."

Religious Liberty Association, 6840 Eastern Avenue,  
Takoma Park, Washington 12, D.C.

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First  
Quarter  
1950

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Freedom of Conscience Monument ..... Color Photo by C. Carey

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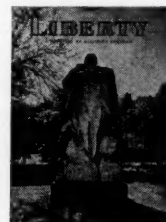
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## Our Cover Picture

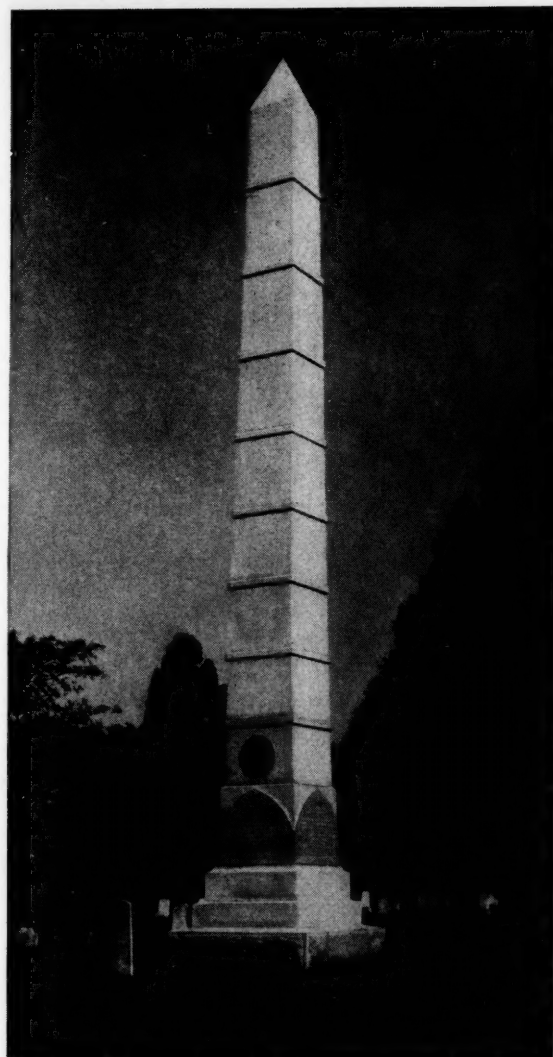
The picture on our cover is somewhat unique. There are not many monuments dedicated to freedom of conscience. Would there were more, or, better still, that the concept of the God-given right to a conscience free and unshackled were more generally recognized and acknowledged. Millions in other lands look with longing and envious eyes upon the freedoms enjoyed by Americans. The sculptor, Mr. Schuler, has chosen to represent the soul enjoying a free and untrammelled conscience as emerging from a cleft made in the rock of oppression and bondage. Note the upward look that suggests that this freedom is a God-given right. This statue was erected by the counties of Maryland and is located in Saint Mary's in Southern Maryland. It commemorates the three hundredth anniversary of the founding of the Old Line State.



## Back Cover

Poem—Freedom to Worship God

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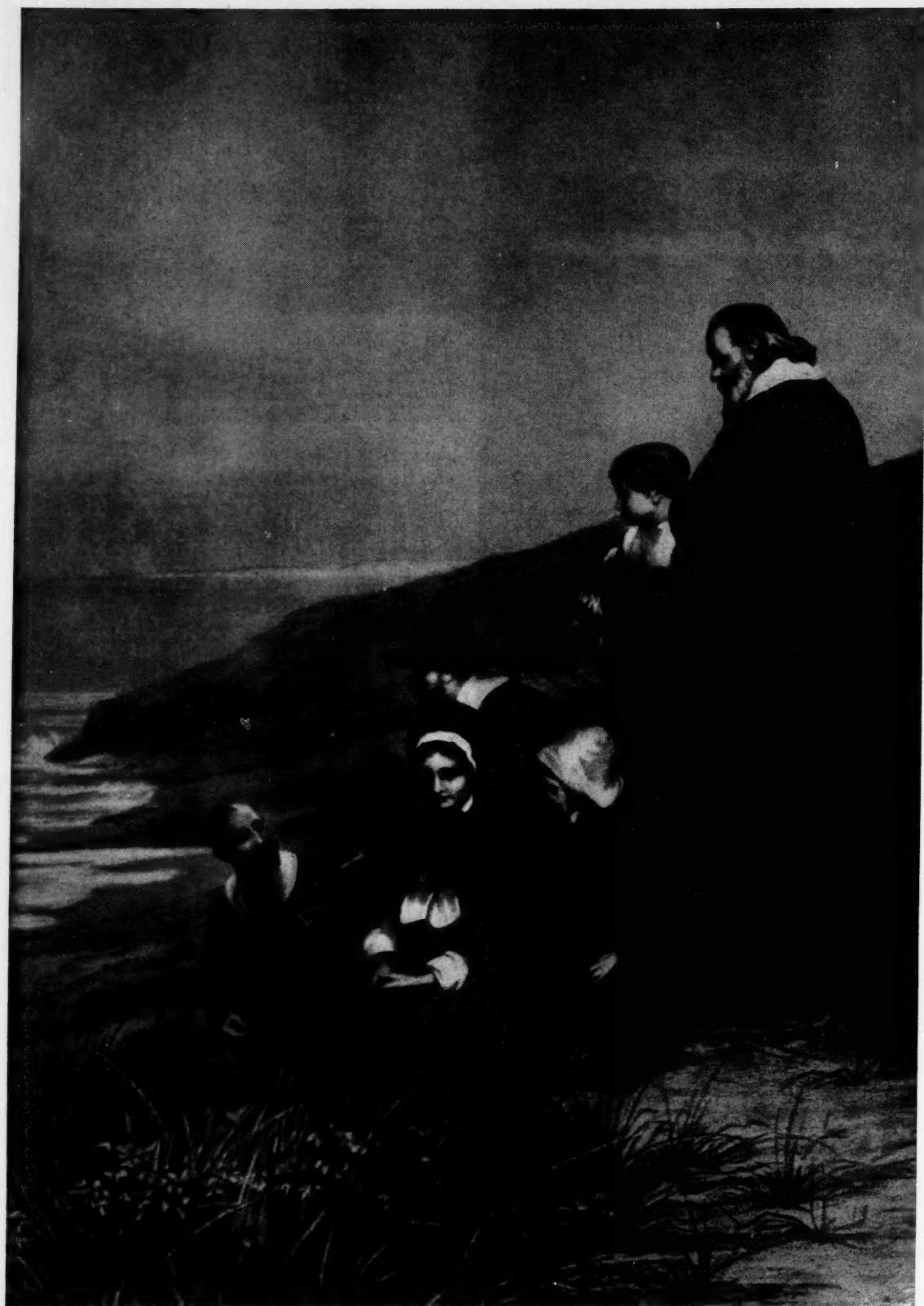


C. CAREY

Monument in Saint Mary's County Erected to the Memory of Leonard Calvert, First Governor of Maryland

LIBERTY is the successor of the American Sentinel, whose first number was published in 1886, at Oakland, California. Its name was changed in 1906, to LIBERTY, under which name it has been published quarterly by the Review and Herald Publishing Association, Takoma Park, Washington 12, D.C. Entered as second-class matter, May 1, 1906, at the post office at Washington, D.C., under the Act of Congress of March 3, 1879. Subscription rates—one year, \$1; club of twelve subscriptions to separate addresses, \$5; five or more copies mailed by publishers to five addresses or to one address, postpaid, each 20 cents. No subscription accepted for less than one year. Remit by post office money order (payable at Washington, D.C., Post Office), express order, or draft on New York. Cash should be sent in registered letter. When a change of address is desired, both old and new addresses must be given. No papers are sent except on paid subscriptions. Any person receiving LIBERTY: A Magazine of Religious Freedom without having subscribed may feel free to accept it.



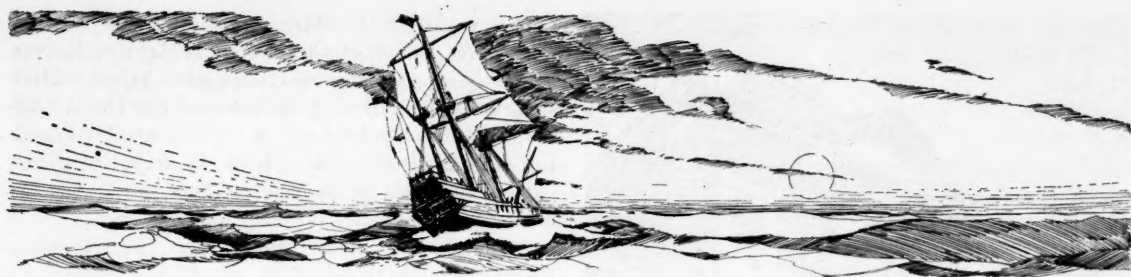


GRAMSTORFF BROS.

**Pastor John Robinson With a Few of His Parishioners Watch Intently,  
as the "Mayflower" Sails Westward Toward a New and Unknown World**

A. W. DATES, ARTIST





The "Mayflower" Sails On and On Toward the West and the Setting Sun

VERNON NYE, ARTIST

# A Forgotten Hero of Liberty

By J. ELLSWORTH KALAS

**H**ISTORY OFTEN HAS a way of omitting some significant names and deeds of mankind. The ironical dealings of Fame are quite inexplicable; one man's contribution is recalled with pages of glowing adjectives while the deeds of another are bypassed with only a sentence or two of recognition.

In just such a way has one great prophet of religious liberty been largely ignored through the years. John Robinson, pastor of the Pilgrim fathers, was without a doubt one of the most advanced thinkers of his day and surely one of the first advocates of religious liberty. The degree of his influence upon America's thinking is difficult to measure, for "influence" is an intangible quality hard to be evaluated by our usual standards. But we know that he played a part in the future of religious liberty in America, although we may never know just how far-reaching that contribution tended to be.

It is not surprising that American history has so little to say about John Robinson, for Robinson himself never reached the shores of America. His major contribution came during the years prior to 1620 while the Pilgrims sat under his teaching. Of particular interest are his farewell remarks to his little group shortly before their departure for America.

This address has been preserved for us by Edward Winslow, who sat for three years under the ministry of John Robinson before leaving on the *Mayflower* for America. Pastor Robinson's words evidently made a deep impression on Winslow, for twenty-six years later (1646) he recalled the speech in his book *Hypocrisie Unmasked*:

"He charged us before God and his blessed Angels, to follow him no further then he followed Christ. And if God should reveal anything to us by any other instrument of his, to be as ready to receive it, as ever we were to receive any truth by his Ministry: For he was very confident the Lord had more truth and light yet to breake forth out of his holy Word. . . . Here also he put us in mind of our Church-Covenant

(at least that part of it) whereby wee promise and covenant with God and one with another, to receive whatsoever light or truth shall be made known to us from his written Word: but withall exhorted us to take heed what we received for truth, and well to examine and compare, and weigh it with other Scriptures of truth, before we received it; For, saith he, *It is not possible the Christian world should come so lately out of such thick Antichristian darknesse, and that full perfection of knowledge should breake forth at once.*"<sup>1</sup>

Such a charitable attitude toward the opinions of others would be remarkable for any age, but it was nothing short of phenomenal for the day in which John Robinson lived. Persecution and intolerance ran rampant throughout the world at that time, and although hundreds of people in England wanted religious liberty for *themselves*, not many thought of granting it to anyone else! The writings of the period indicate clearly the harshness with which men looked upon people of slightly differing convictions. Ministers freely referred to churches of diverse opinions as "Sodom, Babylon, a cage of unclean birds,"<sup>2</sup> until one would imagine that they were describing the cohorts of Satan rather than fellow followers of Jesus Christ.

In fact, John Robinson's statements are so remarkable that some historians in the past have questioned their authenticity. "How could a man in that period have been so enlightened?" they have asked. Whatever the explanation of Robinson's advanced views regarding freedom of religion, however, modern scholarship has established their authenticity beyond reasonable doubt. As a result, John Robinson has become endeared to the lovers of religious liberty as one of the earliest advocates of their cause.

Apparently Robinson's views about religious freedom developed rather gradually. His earlier writings are far more restrained and sectarian in tone, and certainly more typical of the times, but with the



W. P. DEMME

Early in the Seventeenth Century Pastor John Robinson and His Pilgrims Migrated to Holland. There in This Small Building They Worshiped, and Some of Them Prepared for Their Western Venture

passing of years there comes a consistent mellowing of tone, as well as a clearer view of the principle of religious liberty.

Robinson started his ministry at Norwich, England, as a Church of England clergyman, after graduating from Corpus Christi (Benet) College, Cambridge. But about 1604 he became convinced that he could no longer conscientiously be a part of the Church of England and became instead a member of the movement known in history as Separatists, but then derogatorily called Brownists. Like the Puritans, they believed that changes must be made in the Church of England, but the Separatists felt they must withdraw from the established church rather than try, like the Puritans, to work from within. Because of this position, they were despised and persecuted as much by the Puritans as by the Church of England.

By 1606 Robinson was intimately associated with William Bradford and William Brewster in the village of Scrooby, and when the Scrooby Separatists (or Pilgrims, as we have come to know them), mi-

grated to Holland, Robinson went along as their pastor. As leader of the church at Leyden he was highly successful, and his church grew rapidly. More surprising, he gained great favor in the Dutch community and when he died, in 1625, some of the leading Hollanders felt that "all the Churches of Christ sustained a losse by the death of that worthy Instrument of the Gospel."<sup>4</sup>

During his ministry at Leyden, John Robinson gradually formulated firm convictions about the separation of church and state. In his seventh essay he appealed for "civil tolerance of error," insisting that the government should not punish so-called religious offenders, nor should it enforce obedience to church laws. He argued:

"Neither God is pleased with unwilling worshippers, nor Christian societies bettered nor the persons themselves neither, but the plain contrary in all three . . . by this course of compulsion many become atheists, hypocrites, and familists, and being at first constrained to practise against conscience, lose all conscience afterwards. Bags and vessels overstrained break, and will never after hold anything."<sup>4</sup>

At another time he pleaded for the separation of church and state with the cry: "Magistrates are kings and lords over men properly and directly, as they are their subjects, and not as they are Christ's."<sup>5</sup>

Robinson makes his position even more clear in one of his last works, *A Treatise of the Lawfulness of Hearing of the Ministers in the Church of England*, by hailing Christ as "the only king and Lord of his church."<sup>6</sup>

In his farewell letter to the Pilgrims, Robinson urged his little flock to become "a body politick, using amongst your selves civill government."<sup>7</sup> The men were faithful to the advice of their pastor, and although only seventeen of the forty-one signers of the Mayflower Compact were Pilgrims, the historic document opened with the statement: "IN THE NAME OF GOD, AMEN. We, whose names are underwritten . . . Do by these Presents, solemnly and mutually, in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick."

History indicates that the Separatists as a whole were a rather cantankerous crowd, usually quibbling among themselves as much as with outsiders. But Robinson's charitable teaching evidently influenced his followers, for William Bradford has a good deal to say in his works about the sweet harmony that pervaded their group. When the group prepared to leave for America, Robinson urged them to cooperate with any Puritans whom they might find in the new world, and to accept a Puritan pastor if one were available.<sup>8</sup>

The Puritans had given the Pilgrims a good deal of grief in England, and the Pilgrims might easily

have turned the tables in America. But as a result of Robinson's counsel, the relationship in America was excellent. The *Mayflower* group had been in America for eight years when the first Puritans settled in near-by Salem. When the Puritans arrived, the Pilgrims at Plymouth offered them the hand of fellowship and the Puritans accepted. In fact, the Puritans even went so far as to organize their church on the model set up by the Plymouth church. The relationship of the Plymouth-Salem groups is one of the finest testimonials to the contagiousness of the spirit of religious liberty!

It seems unfortunate that this rare soul never reached America. Perhaps if he had been present to exercise his influence personally, the battle for religious freedom in America might have been won much sooner. But Pastor Robinson had done his work well prior to the Pilgrims' leaving, and the force of his teaching and of his correspondence left a permanent impress upon many of the early group. Discerning historians have agreed that William Bradford and William Brewster were consistently faithful to the teachings of their beloved pastor, and that Brewster in particular carried forward the idea of religious liberty.

Late in the seventeenth century Quakers became numerous in America, and persecution of them broke out on all sides. Yet the Pilgrims of Plymouth—now a generation or two removed from the influence of

John Robinson—remained remarkably tolerant of the then-despised sect. Cotton insists, in his *Account of the Plymouth Church*, that "they never made any sanguinary or capital laws against that sect as some of the colonies did." And when persecution of Quakers flared up in the region where John Robinson's son, Isaac, was living, Isaac Robinson allowed himself to be disfranchised rather than join the persecution.<sup>9</sup> The spirit of John Robinson was not dead!

Thus the faithful Pilgrim pastor, who was never privileged to follow his flock to America, played a part in the future of the new land. Plymouth Colony, the State of Massachusetts, New England—indeed, all of America—may well feel indebted to the kindly Pilgrim leader. When a final accounting is made of those stalwarts who have struggled to bring religious liberty to the Western Hemisphere and to mankind, John Robinson's name may well rank high on the list.

<sup>1</sup> Henry Martyn Dexter, *The Congregationalism of the Last Three Hundred Years, as Seen in Its Literature*, p. 404.

<sup>2</sup> William Wallace Fenn, "John Robinson's Farewell Address," *Harvard Theological Review*, July, 1920, vol. 13, p. 240.

<sup>3</sup> Edward Winslow, in *Hypocrisy Unmasked*, quoted in Dexter, *op. cit.*, p. 392, footnote.

<sup>4</sup> Frederick James Powicke, "John Robinson and the Beginnings of the Pilgrim Movement," *Harvard Theological Review*, July, 1920, vol. 13, p. 286.

<sup>5</sup> James Truslow Adams, *The Founding of New England*, p. 146, quoting Robinson's *Works*, vol. 2, p. 41.

<sup>6</sup> Dexter, *op. cit.*, p. 396.

<sup>7</sup> *Old South Leaflets*, vol. 6, p. 372.

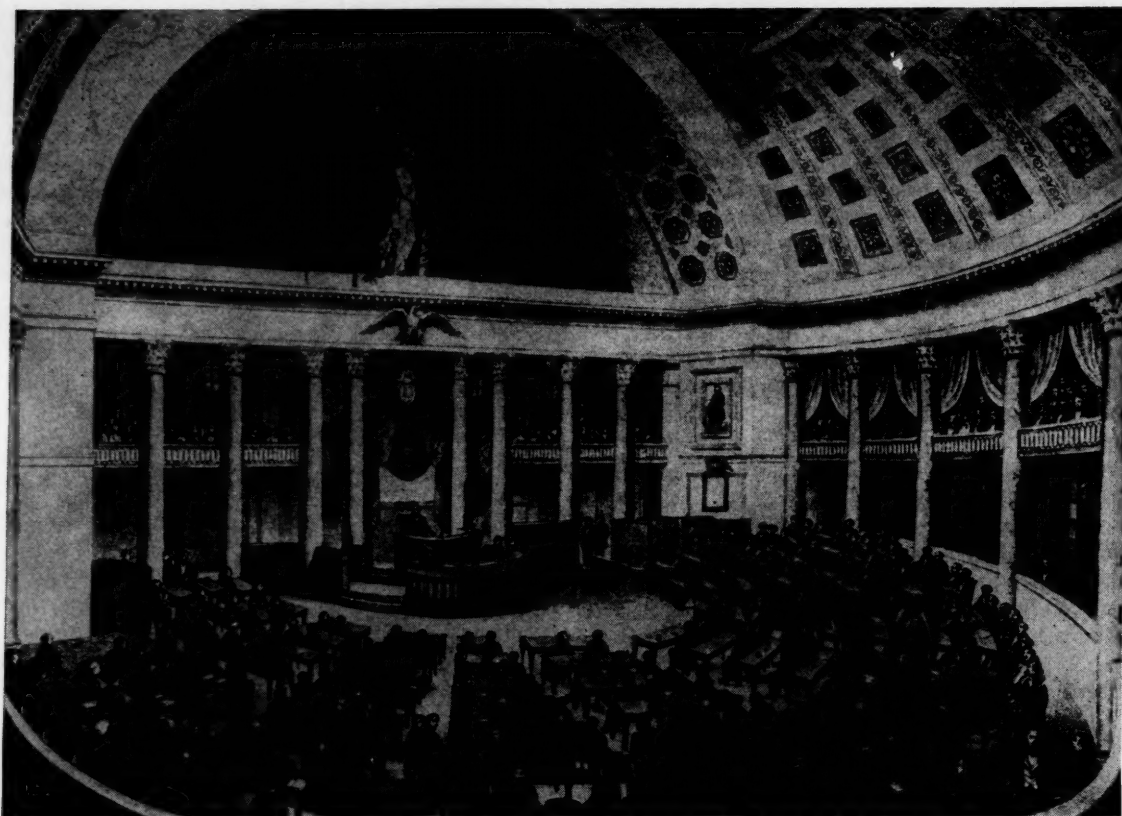
<sup>8</sup> Dexter, *op. cit.*, p. 405, quoting Winslow's *Hypocrisy Unmasked*.

<sup>9</sup> Powicke, *op. cit.*, p. 288.



Before Landing on the Shores of the New World the Passengers of the "Mayflower" Initiated a Form of Civil Government for the Colony They Hoped to Establish. Seventeen of the Forty-one Men Who Signed the Famous "Compact" Were Pilgrims





A View of the Old Chamber of Representatives in the United States Capitol as It Looked in John Quincy Adams' Day. It Is Now Statuary Hall

A. KALLNER, ARTIST

## The Right to Petition

By W. H. HACKETT

**L**IBERTY IS NOT OFFERED on the bargain counters—even in the United States, where too many people take it for granted.

Too often we give lip service to the saying, "Eternal vigilance is the price of liberty," and then turn our backs and give attention to our own private affairs, falsely believing some imaginary policeman is standing guard over those principles for us.

But the policeman is not there.

Liberty will be preserved only by that eternal vigilance.

The seven words so often quoted in this country in connection with our freedoms are wholly inadequate in themselves and should never be separated from the complete statement which was uttered by John Philpot Curran in his speech upon the right of election of Lord Mayor of the city of Dublin.

What he said was: "It is the common fate of the indolent to see their rights become a prey to the active. The condition upon which God hath given liberty to

man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime and the punishment of his guilt."—Speeches of John Philpot Curran, Esq., vol. 2, pp. 235, 236.

Around the world today we find people manacled to some ideology or ism to which they are opposed and which robbed them of their once-cherished liberties—all because, in many instances, they were indolent and became a prey to the active. Religious liberties have been lost under just such conditions.

Here in this country we have been lulled into a semislumber in this respect by the importance we have placed on our great Constitution and its Bill of Rights.

As the result of two of our freedoms, press and speech, our people are today better informed on affairs of government than ever before. Yet they are not vigilant.

We cannot maintain our relationship to government at a pony express rate in an atomic age. Things

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move rapidly today on land, in the air, on the seas—and in government. Pressure groups and lobbyists take advantage of this condition. In many instances groups will feel that certain legislation is needed to correct some condition or circumstance irritating to them or beneficial to them, and sponsor a Congressional bill covering the subject. In their zeal they may, and often do, go beyond the scope of the subject intended to be covered. Then, too, in their anxiety they may overstep the bounds and encroach upon the rights of others. It is here that eternal vigilance is needed.

Today there are more groups looking after legislative interests of others in Washington than ever before. Sometimes it becomes a battle of the pressure groups. Sometimes the indolent slumber and become the prey.

In a recent Congress a bill was presented and endorsed by many well-meaning groups. It was reported favorably by a subcommittee and was well on its way to being presented to the whole Congress for consideration when belated "vigilance" appeared on the scene and held up passage of the legislation.

Although nearly too late, representatives of several religious organizations pointed out that the proposal, under strict interpretation, might even bar the transportation of the Holy Bible in the mails of the United States. Designed to keep defamatory writings out of the mail, the legislation was so written, however, that even general discussion of religious beliefs in printed tracts might be prohibited.

Every citizen of the United States has a right to speak up on such occasions. And that is not confined to "speaking up" as related to free speech.

The citizen may resort to his right to petition. The First Amendment provides that insofar as the national legislature is concerned "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

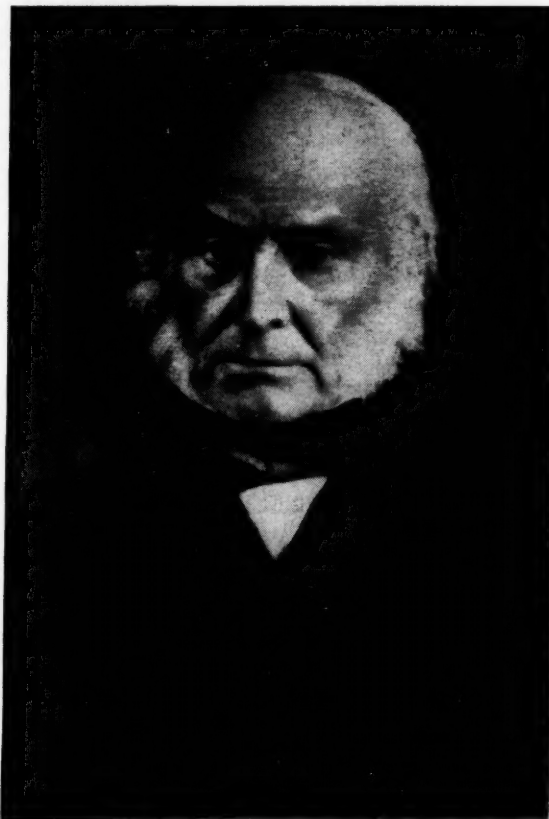
This merely says that Congress shall make no law abridging the right of people to petition their government.

In a Federal court case the court said: "[This amendment] assumes the existence of the right of the people to assemble for lawful purposes, and protects it against encroachments by Congress. The right was not created by the amendment; neither was its continuance guaranteed, except as against congressional interference. For their protection in its enjoyment, therefore, the people must look to the States. The power for that purpose was originally placed there, and it has never been surrendered to the United States."

Forty-five of the forty-eight States were prompt to take action to protect their citizens in their right to petition government for redress of grievances. This protection appears in the form of Constitutional amendments.

These forty-five States have specific provisions in this respect. The Constitutions of two States omit specific reference to right of petition but have sections saying in substance, "The rights enumerated in this bill of rights shall not be construed to limit other rights of the people not herein expressed." One State constitution makes no reference to right of petition and has no provision blanketing other "rights" similar to the one just quoted.

A few examples of provisions of State constitutions guaranteeing the right of petition follow:



John Quincy Adams was the sixth President of the United States. Before filling the office of Chief Executive, however, he represented his country abroad in a number of diplomatic posts. As United States Senator from his native State of Massachusetts, and later as Secretary of State in Monroe's Cabinet, he served his country well.

After his term as President expired, still feeling the urge of public service, he entered the legislative branch. In 1831, at the age of sixty-four years, he was elected a Representative from the Bay State to the Congress of the United States, and continued in that capacity until his death, seventeen years later.

He was known as "the Old Man Eloquent," and became the determined advocate of the right of petition. This photograph of him in his later years was taken by the celebrated photographer Brady, of Civil War fame. We reproduce it from an original photographic print through the courtesy of the Library of Congress.

Article I, Section 10, of the Constitution of California says, "The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances."

In nearly every instance the State constitution links the right of assembly with the right of petition.

The Constitution of Connecticut, Article I, Section 16, says in part the citizens have a right "to apply to those invested with the powers of government, for redress of grievances, or other proper purposes, by petition, address or remonstrance."

The Constitution of Illinois, Article II, Section 17, says in part the people have a right "to make known their opinions to their representatives, and to apply for redress of grievances."

Writers of the Constitution of Louisiana provided that the State's citizens should have the right to "apply to those vested with the powers of government for a redress of grievances by petition or remonstrance."—Article I, Section 5.

Maine has been very liberal, even including the word *instruction*. Article I, Section 15, of that State's constitution says in part that the people shall have a right at all times "to give instructions to their representatives, and to request, of either department of the government by petition or remonstrance, redress of their wrongs and grievances."

The Constitution of Maryland, Article 13, declares that "every man hath a right to petition the Legislature for the redress of grievances in a peaceful and orderly manner."

The Constitution of Wyoming, Article I, Section 21, emphasizes the right of the citizens "to make known their opinions."

The most popular wording of this subject in the various constitutions is the guarantee of the right of the citizens "to apply to those invested with the powers of government, for redress of grievances, or for other proper purposes, by petition, address, or remonstrance."

Congress has, during the years, been very careful to guard the matter of petition. Members of Congress recognize this as a forceful means of expression on behalf of their constituents.

There are very few occasions in the history of this country when any attempt has been made to curb the right of petition. An outstanding instance oc-

curred during the hectic days of Congressional debate over the slavery issue.

It began early in 1837 when his colleagues in Congress attempted officially to censure John Quincy Adams, then a Representative in Congress, in connection with the question of right of petition on the slavery issue. Referring to Mr. Adams' letters to "the inhabitants of the 12th Congressional District of Massachusetts," which he represented, one writer has said, "It will be seen that, in the great struggle for and against the right of petition . . . the author [Mr. Adams] stood, in a great measure, alone and unsupported by his northern colleagues. . . . He stood alone—beating back, with his aged and single arm, the tide which would have borne down and overwhelmed a less sturdy and determined spirit."

Early that year the House of Representatives had voted to eliminate the reading of petitions on the question of slavery. They would merely be received and "laid on the table." On January 23, 1837, Mr. Adams presented twenty-one petitions. He was denied the privilege of reading them, and lost each appeal he made from the ruling of the chair. A few days later he received thirty other petitions. Among them was one purporting to be from slaves and imploring Representatives from the North to cease offering petitions for emancipation of the slaves. Mr. Adams raised the question on the floor of Congress of whether slaves had the right of petition, under the action taken earlier that year with respect to petitions. This brought cries of "Expel him" from many of his colleagues, and a flow of resolutions of censure against him. Many heated words were hurled against Adams. His arguments were forceful, and his opponents, realizing they were losing ground, began to water down their resolutions, couching them in milder terms.

On February 9, 1837, Mr. Adams gave a historic speech on the right of petition. His remarks quoted here were reported by the editor of the Boston *Daily Advocate*.

"The framers of the Constitution would have repudiated the idea that they were giving to the people the right of petition. That right God gave to the whole human race when he made them men—the right of prayer by asking a favor of another. My doctrine is, that this right belongs to humanity,—that the right of petition is the right of prayer, not depending on the conditions of the petitioner; and I say, if you attempt to fix any limit to it, you lay the foundation for restriction to any extent that the madness of party spirit may carry it. . . . The right of petition contests no power; it admits the power. It is supplication; it is prayer; it is the cry of distress, asking for relief."

It was a forceful speech in defense of the right of petition, and after its conclusion less than two

*The legal denial of the  
natural rights of a single  
individual jeopardizes  
the rights of all ~*



dozen votes could be mustered in support of a resolution for even the most indirect censure. All resolutions directed against Mr. Adams were rejected.

The fight over right of petition did not end there. On January 18, 1840, Representative William Slade, of Vermont, also made an effective speech, and a section of his speech is so important it is worth repeating. He said, "The rule before us may seem to some a very small affair; but smaller encroachments on popular rights than this have grown to a fearful magnitude. The history of all usurpations shows that the disposition for encroachment uniformly increases with its acquisitions of power." Therein lies an important thought.

There are many supporters of religious liberty who refuse to arouse themselves at the first alarm of encroachment—or the second, or the third. The call seems "a small affair." However, as Representative Slade added, "The voraciousness of appetite is augmented by the aliment on which it feeds." Any whittling away of religious freedom will lead only to a greater slicing away of that liberty.

The right of petition is an important and a fundamental liberty and was recognized as such by those who drafted our Federal and State constitutions. It should not be looked upon lightly when questions of religious freedom are before National and State legislative bodies.

## Unity in Diversity

*Working Together for the Common Good*

By **RALPH CONOVER LANKLER, D.D.**



[Dr. Lankler is pastor of the First Presbyterian Church, Cortland, New York.—EDITORS.]

ONE OF THE GOALS of democracy is to have people with ideas that differ on matters of economics, politics, and religion live together and work together for the common good. Why cannot this be a goal of Christianity?

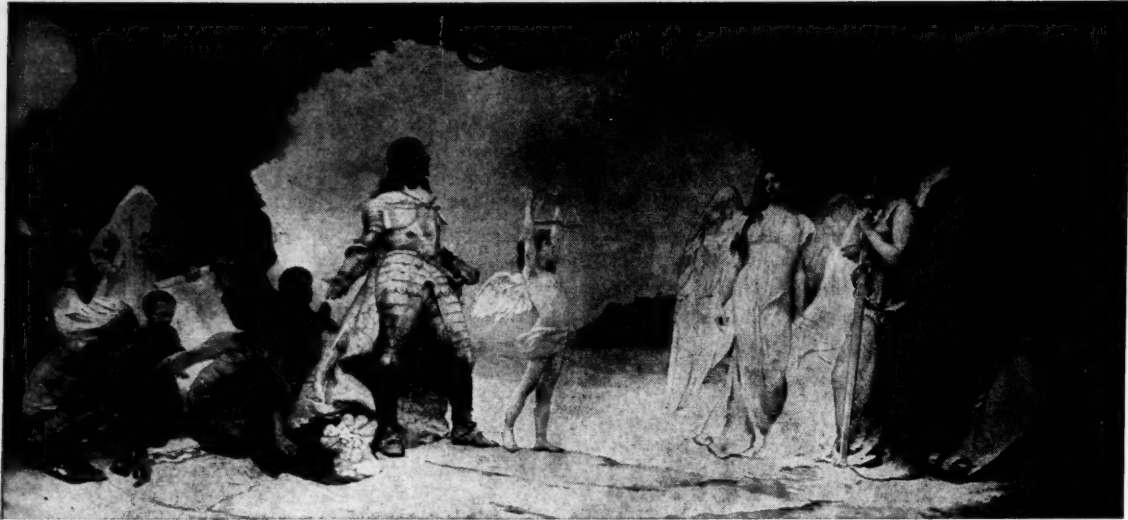
Too often when we talk about uniting Christians we think of uniting buildings or forms of worship, or of bringing everyone under the same ecclesiastical authority. We should desire the type of unity that is based, not upon having everyone think the same and worship the same, but upon democratic principles which allow individuals the right to their own opinions while they work together for the uplift and betterment of one another.

The basic problem that has confronted humanity since Cain slew Abel is the problem of people who have different ideas learning to live together. Our form of government was established upon the belief that God never intended that all people should think and act the same. Unless we can prove to the world that it is possible for us to have unity in the midst of diversity and that a nation is stronger and more

productive that allows for individual expression, then we must yield to those who advocate totalitarian theories of government.

It is disturbing to hear Protestant Christians deride the diversity that exists among their adherents. The strength of the Protestant churches resides in the right of the individual to worship God according to his personal convictions. The multiplicity of denominations is not, as some have suggested, "a disgrace." It is a mark of our spiritual vitality, and signifies that we believe in a spiritual rather than a temporal, material, or physical unity. This is the testimony that we are prepared to give to the world, and that is the great need of the hour.

The kind of world in which most Americans want to live is one where every person is entitled to believe what he wants to believe as long as he does not try to force his beliefs upon anyone else. Those who think that they have the "truth" concerning religion frequently have the unholy habit of trying to force their views upon other people. They are entitled to present their views and to try to persuade others to accept their beliefs, but they have no right in this nation to try to use methods that are not in keeping with demo-



GRAMSTORFF BROS.

A Painting of the "Edict of the Toleration of Lord Baltimore," Depicting the Fact That All Should Live Together in Harmony and Peace, Though Perhaps Professing Different Faiths

BLASHFIELD, ARTIST

eratic procedure. Let us not forget that it was fanaticism and not atheism that crucified Christ. Those who did that dark deed thought that they were performing a religious service to God.

We should respect the sincerity of those who differ from us in matters of belief. When we respect the faith of our fellow men it does not mean that we accept their faith. We may consider their beliefs as being not true or beneficial, and we may try to convert or change them from their views. This is not only our privilege as citizens of a democracy but our duty if we have religious convictions. No harm can be done if we act in accordance with the principles of Christian love and democratic procedure, allowing for freedom of expression to all parties concerned. We cannot, of course, countenance those who use subterfuge, coercion, or unconstitutional procedures to control our thinking.

Religious liberty means more than allowing another person to worship God according to the dictates of his conscience. It means allowing the other person to convert us to his beliefs or forms of worship if he is able to do so by fair and intelligent means. It does *not* mean that an individual shall be subjected to undue pressures or be denied the opportunity to hear and read opposing points of view or be denied the right to express his own opinion.

We should not resent it when another person tells us what his religion means to him. We should consider it a compliment that he thinks enough about us to share with us what is so intimate, personal, and meaningful to him; that he cares that much about our spiritual well-being, the salvation of our souls, to seek to enlighten our minds. We should welcome such an opportunity to tell him what our faith has meant to us, and if we feel that he is in error, to advise him

of that fact. We share our ideas about politics and the events of the day, and we should share them in matters of religion. Only those who are afraid of the truth refuse to discuss any question with an open mind. Let us avoid the attitude of the Scotsman who prayed, "Dear Lord, may I always be right, because I am a hard man to change."

There is no virtue in an easy-going tolerance that is based upon an attitude of indifference or neutrality toward the issues of the day. There is no value in an attitude of respect for others because we do not know what we believe. There is nothing to be gained by the negative type of mind that knows what it is against but not what it is for. The future strength of our nation will depend upon an informed citizenry who will have convictions concerning their constitutional freedoms and their Christian heritage, and who will guard them vigilantly.

## The Spirit of Liberty

"The ground of liberty is to be gained by inches. We must be contented to secure what we can get from time to time and eternally press forward for what is yet to get. It takes time to persuade men to do even what is for their own good."

"Educate and inform the mass of the people—enable them to see that it is their interest to preserve peace and order and they will preserve them. Enlighten the people generally and tyranny and oppression of the body and mind will vanish like evil spirits at the dawn of day."

"Those who labor in the earth are the chosen people of God if He ever had a chosen people whose breasts He has made the peculiar deposits for substantial and genuine virtue. It is the focus in which He keeps alive that sacred fire which otherwise might escape from the earth."

—Quotations on Murals in the Library of Congress.

# Religious Laws in South Africa

By **ERNEST D. HANSON**

*Chairman, Religious Liberty Association of South Africa*

**T**HE UNION OF SOUTH AFRICA, like other members of the British Commonwealth of nations, is governed under the provisions of a constitution defining the relations between the provinces and the central government. Under this constitution, the religious laws in force in the individual provinces at the time of union (1910) remained in force, but each province has the authority to make changes.

Apart from the democratic tradition inherited from the British influence, there appear to be no specific safeguards against governmental interference in religious matters. On the contrary, from the first year of the Dutch settlement in the Cape Peninsula in 1652, the Calvinistic interpretation of Sunday observance and church attendance was accepted and enforced by the lawmaking bodies. One of the first laws proclaimed by Jan van Riebeeck, the governor in 1652, dealt with religious observances.

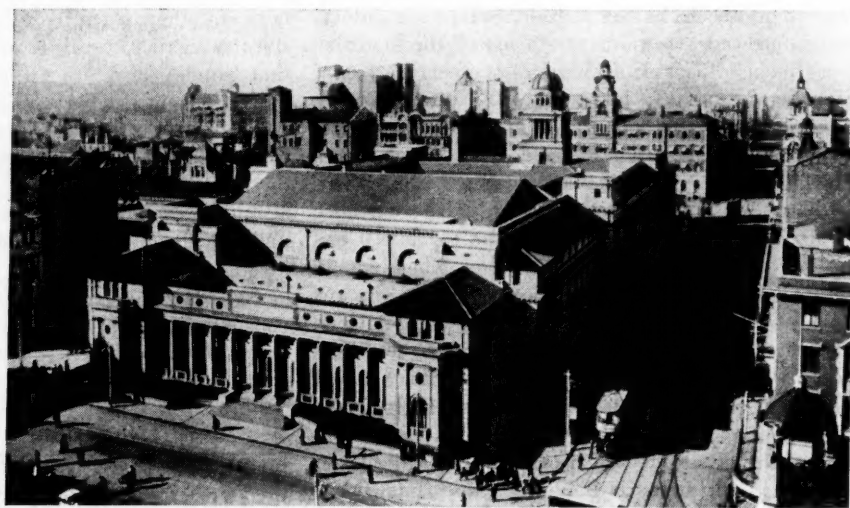
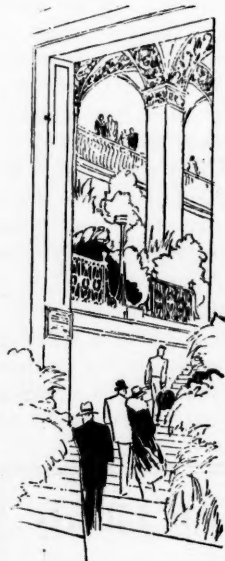
"And as many absent themselves from daily prayer and the Sunday Christian exercises and exhortations, attending very little to their religion, . . . everyone, whoever he may be, is warned henceforth to attend at the place appointed for the purpose; and those remaining absent are notified that they shall forfeit six days' wine rations, for the first offence, and one month's pay for the second in addition; whilst for the third time they shall be condemned to work in chains for a whole year at the public works."—H. C. V. LEIBRANDT, *Precis of the Archives of the Cape of Good Hope*, vol. 2, p. 365.

The provisions of this law lend point to the report to the Presbytery of Amsterdam in 1655. "Everything is proceeding well; the common people are well held to religious exercises so that no one may absent himself, whatever his feelings may be, without consent, for fear of punishment directed by the Commander."

This attitude toward religious compulsion continued to dominate the thinking of lawmakers throughout the century and a half of Dutch rule and the early British colonial rule. In 1838, more than thirty years after the British took over from the Dutch, at the Cape of Good Hope the most significant religious legislation of the century was promulgated.

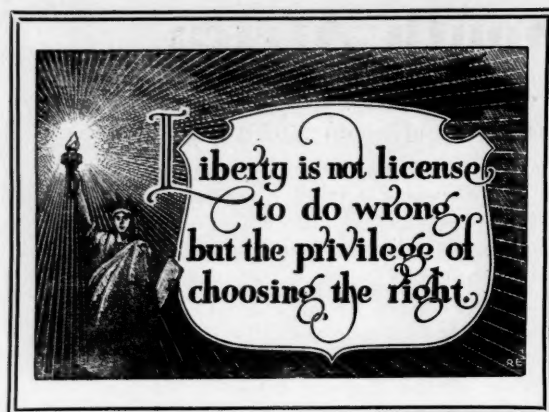
This ordinance, which, with a few minor amendments, is still the basic Sunday law for the Cape Province, is quite as remarkable for its exceptions as for the things it forbids. It forbids buying and selling except medical supplies, and, before 9 A.M. and after 4 P.M., milk, bread, and meat. Any person convicted of cutting or carrying fuel or discharging any firearm is liable to fine or imprisonment. But the severest penalties are directed toward amusements and games.

"And be it enacted that the owner or occupier of any public billiard room, skittle-ground, or other place of amusement who shall permit or suffer any one to play in his house or premises at *any game* on the Lord's Day shall incur and be liable to a fine not exceeding ten pounds nor less than five shillings, or



A Glimpse Into the Business Section of an Important South African City, Johannesburg, in the Transvaal. No One in a Town or City in This State May Load, Unload, or Even Drive a Transport Wagon on Sunday





to imprisonment for any period not exceeding one month. And it shall be lawful for any Resident Magistrate, Justice of the Peace, field cornet, or police officer to disperse all persons gathering together on the Lord's Day in any *public or open* place for the purpose of gambling, fighting dogs or cocks, or *playing at any game*. . . . And all persons actually . . . playing as aforesaid he shall arrest or cause to be arrested."

In 1895 this prohibition was extended to include theatrical, dramatic, musical, vocal, and pictorial exhibitions, regardless as to whether they were free or not. An exception was made in respect to sacred musical concerts.

How seriously these laws are enforced may be judged by two incidents in 1948. For many years the Cape Town Orchestra has given a sacred and classical concert in the City Hall every Sunday night. The Sunday Observance Society of Cape Town charged the orchestra with breaking the Sunday Law of 1895, and the government took under advisement the demand to prosecute. After a prolonged public outcry against such a narrow interpretation of the law, the Department of Justice declined to prosecute.

The second incident had to do with a game of golf. Six men traveled on business to a small town in the Cape Province. Having to spend a week end there, they went out to play golf on Sunday morning. They had played only a short time when a police constable warned them that they were breaking the law. Consequently they returned to the hotel where, it is reported, they spent the remainder of the day playing poker.

Some piquant situations arise because of the differences in the various provincial Sunday laws. Thus, a man who goes to the Orange River where it forms the boundary between the Cape Province and the Orange Free State, may fish on Sunday on the Cape Province side, but he is liable to a fine if he fishes on the Orange Free State side. In the dry season he could cast his line across the river. This Free State

law was slipped into the Game Conservation Act in 1933.

The attempt to legislate in respect to a day of rest leads to many inconsistencies and anomalies. In the Transvaal a man may drive his transport wagon in the country on a Sunday, but he may not enter the boundaries of a town, or load, or unload in a town. Likewise, he may not hunt with gun, dogs, or other animals, but he may destroy vermin. Again, he may not do agricultural or garden work except "in cases of pressing necessity."

The mining industry provides an example of inconsistency in the law. The gold mines constitute the most important industry in the country. The law forbids working "with steam or other machines," but the crushing of gold quartz on Sunday is permitted, provided the stamp mill is operated with automatic appliances and provided "not more than five per cent of the usual workmen of the company are employed."

Finally, in the Transvaal the government reserves privileges to itself that are denied to the individual. "The Government has the right to permit or order the delivery on Sunday of eatables or *other goods* by a Government Contractor." In the Cape Province and Natal the same privilege is retained in respect to naval and military stores.

Since all Sunday laws are based on the untenable premise that the Government has the right and duty to enforce religious observances, while at the same time protecting profits, property, and pleasure, these inconsistencies are inevitable. And because this fundamental fallacy is often overlooked by the more liberal members of the community, their pleas for tolerance and liberty are often based on indefensible grounds.

The fact that Sunday laws do not make a man more religious is looked upon by proponents of religious legislation as a weak argument against such laws, for they place these laws in the same class as statutes against stealing and killing. The argument that Sunday laws are unjust because they interfere with a person's opportunities for recreation is not a good reason for the removal of all recreational restrictions on Sunday. Advocates of recreation would be on firmer ground if they insisted that *some* time should be provided at regular intervals for recreation and relaxation without associating it exclusively with a religious controversy.

Even lawmakers and administrators are not always consistent in applying the law. In 1948 a sporting body in Cape Town sought permission to conduct motor car reliability trials on Sunday. The adminis-

## Obedience to Law Is Liberty

trator granted permission for these trials, provided they were run at certain hours. The prohibited hours included those when divine services were generally held.

A more spiritual approach to the observance of the Sabbath is an urgent need in every community, and any church that relaxes its standards in this respect must lose tremendously in spiritual power. But to invoke the aid of the secular power to maintain these standards is to destroy the spiritual forces that give the standards meaning. To bind the consciences of men by secular statutes is to destroy spirituality and promote hypocrisy. Furthermore, such laws must lead ultimately to the total enslavement of the mind of man, for the government that binds a man's religious conscience will ultimately regiment the political, social, and economic thinking of its citizens. And any government that attempts such regimentation turns its back upon the highest principles of national progress.

The fundamental issue facing South Africa today is the relation of the government and the lawmakers to the church and religion. Are we going to sanction a union of church and state that must inevitably lead to tyranny and oppression, or are we as Christian men and women going to lay hold of the unlimited power vouchsafed by Christ to the Christian church to change the *hearts* of men, and build a strong triumphant religious life in the community?

If the latter is to be our goal, we must fight every encroachment on the religious rights of every citizen. We must acknowledge the higher sovereignty of God in the realm of religious dogma, and grant to every man the right to worship God in harmony with his conscience. Although God overrules in the affairs of nations, no government has been appointed to coerce the consciences of men or to define their relation to God. Only by recognizing this fundamental principle can true liberty be given its rightful place and individual freedom be guaranteed.

## The Security and Strength of America

By C. S. LONGACRE

**W**HAT CONSTITUTES the real source of American security and strength? A British poet tells us in his graphic style what a state is not, and what really constitutes a state:

"What constitutes a state?  
Not high raised battlements or labored mound,  
Thick walls or moated gate;  
Not cities proud, with spires and turrets crowned,  
Nor bays and broad arm ports  
Where, laughing at the storm, rich navies ride;  
Not starred and spangled courts,  
Where low-browed baseness wafts perfume to pride—  
No!—men, high-minded men,  
With powers as far above dull brutes endued,  
In forest, brake, or den,  
As beasts excel cold rocks and brambles rude,—  
Men, who their duties know,  
But know their rights; and, knowing, dare maintain,  
Prevent the long-aimed blow,  
And crush the tyrant, while they rend the chain,—  
These constitute a state."

—SIR WILLIAM JONES.

Many mighty nations with walled cities and moated gates, with splendid navies and thick-walled fortresses, with unrivaled armament and numberless soldiers, have gone down into defeat and passed into oblivion. Will our American Republic, which every true and loyal patriot loves so dearly, meet the same fate as did the world powers of Egypt, Assyria,

Babylon, Persia, Greece, and Rome? There are certain tendencies operating in our Government, and unless they are checked and corrected the United States is headed for a similar fate.

The one and only hope of the American Republic's maintaining its unique position of true greatness, strength, and security lies in its preserving the ideals and fundamental principles of liberty, justice, equality of rights, equality of opportunity, individual initiative, the free exercise of the conscience in religious concerns, the separation of church and state, freedom of speech and the press, and the inalienable right of the individual to propagate his religious convictions without interference from the government so long as he respects the equal rights of his fellow beings in the exercise of his God-given prerogatives. The moral sense and character of the American people constitute the greatest asset of our Republic, and as long as the majority of the people maintain the ideals upon which our forefathers founded our constitutional form of government, our heritage of liberty will be secure.

We hear that our greatest defensive weapon is the atomic bomb or the poison gas bomb that can wipe out all the inhabitants of a large city within a few moments. There is no one who doubts or who belittles the fantastic, destructive power of these deadly



The National Capitol Stands as a Symbol of a Free People

weapons. But the security and strength of America is not found in the exclusive possession of these terrible instruments of destruction which, we are told, can wipe out whole nations.

We must never forget the divine admonition, that "the race is not to the swift, nor the battle to the strong." "Except the Lord keep the city, the watchman waketh but in vain." There is nothing more deceptive, more misleading, or more dangerous to the security of any nation than for its people to put their "trust in princes" or "in the son of man, in whom there is no help." But, as the psalmist says, "happy is he . . . whose hope is in the Lord his God." The strength of a nation lies not in its superior armaments but in its superior ideals and principles of government, reflected in the lives of its rulers and its people.

George Washington and his weak, ragged, impoverished army of the American Revolution demonstrated that fact in their conflict with superior forces. It is possible for a boomerang to smite the head of its hurler. The cause of right, however inferior in numerical strength, is mightier than the cause of wrong, however superior. What has made America so strong, prosperous, and invincible is the ideals, the virtues, and the faith and character of the rulers of the people who have believed in and protected the precious heritage of liberty and essential justice that is for all the people.

Liberties once surrendered are exceedingly difficult to regain. Eternal vigilance is the price that has to be paid for our security and our blood-bought lib-

erties. Every citizen must view with alarm the first attempt to encroach upon our liberties and our inalienable rights. Our weakness and our danger lie in our apathy and indifference toward our American way of life. We are weak in the same proportion as we lose faith in the ideals upon which our republic was founded and which have made us as a people a great and influential nation in a short period of time.

The greatness of America does not lie primarily in military strength, nor in American thrift and free enterprise, nor in economic soundness and reform legislation in the field of morals and religion; it lies rather in the strength and vitality of our ethical and spiritual ideals, promoted and fostered on a voluntary basis without governmental sanction and support. As long as the people of America place the conscience of the individual in all religious matters above the supremacy of the state, and safeguard the inalienable rights of the individual above the exercise of human authority in government, both the dignity and the safety of the individual and of the state will be maintained, and governmental stability will be ensured. This is the only basis upon which liberty, peace, and security both for the individual and for the state can possibly be maintained.

Here the rulers are not the masters but the servants of the people. The actions of government officials may be freely criticized without reprisal. The right of dissent is sacredly guarded so long as the individual does not indulge in malicious libel or slander. Diversity of opinion, diversity of religious creed, diversity of political faith, and diversity in the prac-



tice and propagation of divergent views in religion and politics is the unique distinction between a republican and a totalitarian form of government. As long as ethical, moral, and spiritual standards function on a voluntary basis, without interference or molestation on the part of the government, religious freedom is safe.

For liberty to be secure, it must be so deeply engraved upon men's hearts that they would rather surrender their lives than to give it up. This love of liberty must be woven into the warp and woof of the fabric of the character of the people, or it will be lost—given up for promised gain or through fear of suffering.

## Unlicensed Distribution of Religious Literature

[One of the most cherished freedoms enjoyed by American religionists is the liberty to propagate their faith by means of the printed page. This right has been curtailed by many municipalities through the imposition of license taxes and other regulations. The legality of such laws has been discussed several times by the Supreme Court of the United States. Justice Douglas in the following decision ably sets forth the basic principles of liberty which should govern in such cases.—EDITORS.]

**THE CITY OF JEANNETTE, PENNSYLVANIA,** has an ordinance, some forty years old, which provides in part:

"That all persons canvassing for or soliciting within said Borough, orders for goods, paintings, pictures, wares, or merchandise of any kind, or persons delivering such articles under orders so obtained or solicited, shall be required to procure from the Burgess a license to transact said business and shall pay to the Treasurer of said Borough therefor the following sums according to the time for which said license shall be granted.

"For one day \$1.50, for one week seven dollars (\$7.00), for two weeks twelve dollars (\$12.00), for three weeks twenty dollars (\$20.00), provided that the provisions of this ordinance shall not apply to persons selling by sample to manufacturers or licensed merchants or dealers doing business in said Borough of Jeannette."

Petitioners are "Jehovah's Witnesses". They went about from door to door in the City of Jeannette distributing literature and soliciting people to "purchase" certain religious books and pamphlets. . . . Petitioners were convicted and fined for violation of the ordinance. . . .

The First Amendment, which the Fourteenth makes applicable to the states, declares that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press . . ." It could hardly be denied that a tax laid specifically on the exercise of those freedoms would be unconstitutional. Yet the license tax imposed by this ordinance is in substance just that.

Petitioners spread their interpretations of the Bible and their religious beliefs largely through the hand distribution of literature by full or part time workers. They claim to follow the example of Paul, teaching "publicly, and from house to house." Acts 20:20. They take literally the mandate of the Scriptures, "Go ye into all the world, and preach the gospel to every creature." Mark 16:15. In doing so they believe that they are obeying a commandment of God.

The hand distribution of religious tracts is an age-old form of missionary evangelism—as old as the history of printing presses. It has been a potent force in various religious movements down through the years. This form of evangelism is utilized today on a large scale by various religious sects whose colporteurs carry the Gospel to thousands upon thousands of homes and seek through personal visitations to win adherents to their faith. It is more than preaching; it is more than distribution of religious literature. It is a combination of both. Its purpose is as evangelical as the revival meeting. This form of religious activity occupies the same high estate under the First Amendment as do worship in the churches and preaching from the pulpits. It has the same claim to protection as the more orthodox and conventional exercises of religion. It also has the same claim as the others to the guarantees of freedom of speech and freedom of the press.

The integrity of this conduct or behaviour as a religious practice has not been challenged. Nor do we have presented any question as to the sincerity of petitioners in their religious beliefs and practices, however misguided they may be thought to be. Moreover, we do not intimate or suggest in respecting their sincerity that any conduct can be made a religious rite and by the zeal of the practitioners swept into the First Amendment. *Reynolds v. United States*, 98 U. S. 145, 161-167, and *Davis v. Beason*, 133 U. S. 333 denied any such claim to the practice of polygamy and bigamy. Other claims may well arise

which deserve the same fate. We only hold that spreading one's religious beliefs or preaching the Gospel through distribution of religious literature and through personal visitations is an age-old type of evangelism with as high a claim to constitutional protection as the more orthodox types. The manner in which it is practiced at times gives rise to special problems with which the police power of the states is competent to deal. See for example *Cox v. New Hampshire*, 312 U. S. 569 and *Chaplinsky v. New Hampshire*, 315 U. S. 568. But that merely illustrates that the rights with which we are dealing are not absolutes. *Schneider v. State*, 308 U. S. 147, 160-161. We are concerned, however, in these cases merely with one narrow issue. There is presented for decision no question whatsoever concerning punishment for any alleged unlawful acts during the solicitation. Nor is there involved here any question as to the validity of a registration system for colporteurs and other solicitors. The cases present a single issue—the constitutionality of an ordinance which as construed and applied requires religious colporteurs to pay a license tax as a condition to the pursuit of their activities.

The alleged justification for the exaction of this license tax is the fact that the religious literature is distributed with a solicitation of funds. Thus it was stated in *Jones v. Opelika*, *supra*, p. 597, that when a religious sect uses "ordinary commercial methods of sales of articles to raise propaganda funds", it is proper for the state to charge "reasonable fees for the privilege of canvassing." Situations will arise where it will be difficult to determine whether a particular activity is religious or purely commercial. The distinction at times is vital. As we stated only the other day in *Jamison v. Texas*, 318 U. S.—, "The state can prohibit the use of the street for the distribution of purely commercial leaflets, even though such leaflets may have 'a civil appeal, or a moral platitude' appended. *Valentine v. Chrestensen*, 316 U. S. 52, 55. They may not prohibit the distribution of handbills in the pursuit of a clearly religious activity merely because the handbills invite the purchase of books for the improved understanding of the religion or because the handbills seek in a lawful fashion to promote the raising of funds for religious purposes." But the mere fact that the religious literature is "sold" by itinerant preachers rather than "donated" does not transform evangelism into a commercial enterprise. If it did, then the passing of the collection plate in church would make the church service a commercial project. The constitutional rights of those spreading their religious beliefs through the spoken and printed word are not to be gauged by standards governing retailers or wholesalers of books. The right to use the press for expressing one's views is not to be measured by the protection afforded commercial handbills. It should

be remembered that the pamphlets of Thomas Paine were not distributed free of charge. It is plain that a religious organization needs funds to remain a going concern. But an itinerant evangelist however misguided or intolerant he may be, does not become a mere book agent by selling the Bible or religious tracts to help defray his expenses or to sustain him. Freedom of speech, freedom of the press, freedom of religion are available to all, not merely to those who can pay their own way. As we have said, the problem of drawing the line between a purely commercial activity and a religious one will at times be difficult. On this record it plainly cannot be said that petitioners were engaged in a commercial rather than a religious venture. It is a distortion of the facts of record to describe their activities as the occupation of selling books and pamphlets. And the Pennsylvania court did not rest the judgments of conviction on that basis, though it did find that petitioners "sold" the literature. The Supreme Court of Iowa in *State v. Mead*, 230 Ia. 1217, described the selling activities of members of this same sect as "merely incidental and collateral" to their "main object which was to preach and publicize the doctrines of their order." And see *State v. Meredith*, 197 S. C. 351; *People v. Barber*, 289 N. Y., 378, 385-386. That accurately summarizes the present record.

We do not mean to say that religious groups and the press are free from all financial burdens of government. See *Grosjean v. American Press Co.*, 297 U. S. 233, 250. We have here something quite different, for example, from a tax on the income of one who engages in religious activities or a tax on property used or employed in connection with those activities. It is one thing to impose a tax on the income or property of a preacher. It is quite another thing to exact a tax from him for the privilege of delivering a sermon. The tax imposed by the City of Jeannette is a flat license tax, the payment of which is a condition of the exercise of these constitutional privileges. The power to tax the exercise of a privilege is the power to control or suppress its enjoyment. *Magnano Co. v. Hamilton*, 292 U. S. 40, 44-45, and cases cited. Those who can tax the exercise of this religious practice can make its exercise so costly as to deprive it of the resources necessary for its maintenance. Those who can tax the privilege of engaging in this form of missionary evangelism can close its doors to all those who do not have a full purse. Spreading religious beliefs in this ancient and honorable manner would thus be denied the needy. Those who can deprive religious groups of their colporteurs can take from them a part of the vital power of the press which has survived from the Reformation.

It is contended, however, that the fact that the license tax can suppress or control this activity is unimportant if it does not do so. But that is to disregard the nature of this tax. It is a license tax—a flat tax

imposed on the exercise of a privilege granted by the Bill of Rights. A state may not impose a charge for the enjoyment of a right granted by the federal constitution. Thus, it may not exact a license tax for the privilege of carrying on interstate commerce (*McGoldrick v. Berwind-White Co.*, 309 U. S. 33, 56-58), although it may tax the property used in, or the income derived from, that commerce, so long as those taxes are not discriminatory. *Id.*, p. 47 and cases cited. A license tax applied to activities guaranteed by the First Amendment would have the same destructive effect. It is true that the First Amendment, like the commerce clause, draws no distinction between license taxes, fixed sum taxes, and other kinds of taxes. But that is no reason why we should shut our eyes to the nature of the tax and its destructive influence. The power to impose a license tax on the exercise of these freedoms is indeed as potent as the power of censorship which this Court has repeatedly struck down. *Lovell v. Griffin*, 303 U. S. 444; *Schneider v. State*, *supra*; *Cantwell v. Connecticut*, 310 U. S. 296, 306; *Largent v. Texas*, 218 U. S.—; *Jamison v. Texas*, *supra*. It was for that reason the dissenting opinions in *Jones v. Opelika*, *supra*, stressed the nature of this type of tax. 316 U. S. pp. 607-609, 620, 623. In that case, as in the present ones, we have something very different from a registration system under which those going from house to house are required to give their names, addresses and other marks of identification to the authorities. In all of these cases the issuance of the permit or license is dependent on the payment of a license tax. And the license tax is fixed in amount and unrelated to the scope of the activities of petitioners or to their realized revenues. It is not a nominal fee imposed as a regulatory measure to defray the expenses of policing the activities in question. It is in no way apportioned. It is a flat license tax levied and collected as a condition to the pursuit of activities whose enjoyment is guaranteed by the First Amendment. Accordingly, it restrains in advance those constitutional liberties of press and religion and inevitably tends to suppress their exercise. That is almost uniformly recognized as the inherent vice and evil of this flat license tax. As stated by the Supreme Court of Illinois in a case involving this same sect and an ordinance similar to the present one, a person cannot be compelled "to purchase, through a license fee or a license tax, the privilege freely granted by the constitution." *Blue Island v. Kozul*, 379 Ill. 511, 519. So it may not be said that proof is lacking that these license taxes either separately or cumulatively have restricted or are likely to restrict petitioners' religious activities. On their face they are a restriction of the free exercise of those freedoms which are protected by the First Amendment.

The taxes imposed by this ordinance can hardly help but be as severe and telling in their impact on

the freedom of the press and religion as the "taxes on knowledge" at which the First Amendment was partly aimed. *Grosjean v. American Press Co.*, *supra*, pp. 244-249. They may indeed operate even more subtly. Itinerant evangelists moving throughout a state or from state to state would feel immediately the cumulative effect of such ordinances as they become fashionable. The way of the religious dissenter has long been hard. But if the formula of this type of ordinance is approved, a new device for the suppression of religious minorities will have been found. This method of disseminating religious beliefs can be crushed and closed out by the sheer weight of the toll or tribute which is exacted town by town, village by village. The spread of religious ideas through personal visitations by the literature ministry of numerous religious groups would be stopped.

The fact that the ordinance is "nondiscriminatory" is immaterial. The protection afforded by the First Amendment is not so restricted. A license tax certainly does not acquire constitutional validity because it classifies the privileges protected by the First Amendment along with the wares and merchandise of hucksters and peddlers and treats them all alike. Such equality in treatment does not save the ordinance. Freedom of press, freedom of speech, freedom of religion are in a preferred position.

It is claimed, however, that the ultimate question in determining the constitutionality of this license tax is whether the state has given something for which it can ask a return. That principle has wide applicability. *State Tax Commission v. Aldrich*, 316 U. S. 174, and cases cited. But it is quite irrelevant here. This tax is not a charge for the enjoyment of a privilege or benefit bestowed by the state. The privilege in question exists apart from state authority. It is guaranteed the people by the federal constitution.

Considerable emphasis is placed on the kind of literature which petitioners were distributing—its provocative, abusive, and ill-mannered character and the assault which it makes on our established churches and the cherished faiths of many of us. See *Douglas v. City of Jeannette*, concurring opinion, decided this day. But those considerations are no justification for the license tax which the ordinance imposes. Plainly a community may not suppress, or the state tax, the dissemination of views because they are unpopular, annoying or distasteful. If that device were ever sanctioned, there would have been forged a ready instrument for the suppression of the faith which any minority cherishes but which does not happen to be in favor. That would be a complete repudiation of the philosophy of the Bill of Rights.

Jehovah's Witnesses are not "above the law." But the present ordinance is not directed to the problems with which the police power of the state is free to deal. It does not cover, and petitioners are not charged



with, breaches of the peace. They are pursuing their solicitations peacefully and quietly. Petitioners, moreover, are not charged with or prosecuted for the use of language which is obscene, abusive, or which incites retaliation. Cf. *Chaplinsky v. New Hampshire, supra*. Nor do we have here, as we did in *Cox v. New Hampshire, supra*, and *Chaplinsky v. New Hampshire, supra*, state regulation of the streets to protect and insure the safety, comfort, or convenience of the public. Furthermore, the present ordinance is not narrowly drawn to safeguard the people of the community in their homes against the evils of solicitations. See *Cantwell v. Connecticut, supra*, 306. As we have said, it is not merely a registration ordinance calling for an identification of the solicitors so as to give the authorities some basis for investigating strangers coming into the community. And the fee is not a nominal one, imposed as a regulatory measure and calculated to defray the expense of protecting those on the streets and at home against the abuses of solicitors. See *Cox v. New Hampshire, supra*, pp. 576-577. Nor can the present ordinance

survive if we assume that it has been construed to apply only to solicitation from house to house. The ordinance is not narrowly drawn to prevent or control abuses or evils arising from that activity. Rather, it sets aside the residential areas as a prohibited zone, entry of which is denied petitioners unless the tax is paid. That restraint and one which is city wide in scope (*Jones v. Opelika*) are different only in degree. Each is an abridgment of freedom of press and a restraint on the free exercise of religion. They stand or fall together.

The judgment in *Jones v. Opelika* has this day been vacated. Freed from that controlling precedent, we can restore to their high, constitutional position the liberties of itinerant evangelists who disseminate their religious beliefs and the tenets of their faith through distribution of literature. The judgments are reversed and the causes are remanded to the Pennsylvania Superior Court for proceedings not inconsistent with this opinion.

*Reversed.*

—Murdoch vs. Commonwealth of Pennsylvania  
(City of Jeannette).

## EDITORIALS

### "This One Thing I Do"

**M**ATERIAL COVERING many subjects comes to our desk. Much of it is so good that we are sorry we cannot share it with our readers. But *LIBERTY* is only a small quarterly. We therefore must confine its pages to material dealing with religious liberty and separation of church and state.

We believe in civil liberty, but we cannot give space to a discussion of it except as it is closely related to religious liberty in such matters as freedom of speech and press, for example.

It is reported that when one of our Presidents returned from a Sunday morning service, the first lady asked him what the preacher had talked about. His laconic answer was, "Sin." Because he did not say more, his wife asked, "What did he say about it?" The answer: "He seemed to be against it."

We are not against civil liberty. We believe that everyone should be allowed every freedom that will not infringe the equal rights of others. However, as far as we know, ours is the only journal in the country that has for its sole text, religious liberty for all and separation of church and state.

That such a magazine is needed is proved by the religious laws that yet remain on State and city

statute books and the frequent attempts to enforce them.

The need is emphasized by the assaults now being made upon the great principles which underlie our government regarding the proper relationship of church and state. Some say our Constitution belongs to the horse-and-buggy age. Others refer to the phrase, "separation of church and state," as outworn, a meaningless slogan, a misleading shibboleth.

We will have to stick to our task, and we must continue to return good articles which do not bear directly upon the propositions we seek to defend, namely, that both church and state suffer when they unite, and that man is responsible only to God in matters of conscience.

H. H. V.

### Federal Aid for Hospital Refused by Baptist Convention

**○**UR HATS ARE OFF to the executive board of the West Virginia Baptist State Convention. The denomination has been working to secure funds to erect a hospital on the grounds of Alderson-Broadbush College. The idea of having the hospital on the college campus, we understand, is to make it possible for students to get a liberal arts education and continue their nursing studies at the same time.

When money was slow coming in, the trustees of the proposed hospital applied for the Federal aid that is available for the construction of nonprofit hospitals. The executive Board of the State Convention refused to approve this application "on the ground that acceptance of Federal funds would violate the principle of separation of church and state."

A division of opinion such as has arisen between the trustees of the hospital and the executive board of the State Convention is almost sure to come up whenever a group has consistently taught that the receiving of state funds constitutes a union of church and state and the opportunity arises to secure such tax monies. Our information does not tell us how the matter has been finally decided.

We repeat what we have so often said: It is hard to refuse money which should not be taken when it can be had.

H. H. V.

### **Private Support of Service Chaplains**

MANY OF THOSE who urge the appropriation of Federal funds for church-operated institutions argue that it must be right for the government to aid religion because chaplains serve in the Federal Congress, in some, at least, of the State legislatures, in the Army and Navy and Air Corps, and in many Federal and State institutions, such as veterans' hospitals and penal institutions of all sorts.

It is refreshing indeed to have this from the director of the Interdenominational Religious Work Foundation of Virginia:

"Virginia church leaders hold that the work of the chaplains in prisons, industrial schools, hospitals, sanatoria and colonies presents a missionary opportunity for the church, and is not a function of the state."

James Madison, a Virginian, would undoubtedly be pleased if he could know about this, for he charged that Congress deviated from the principle of separation of church and state "when they appointed chaplains to be paid from the National Treasury."

In the famous "Act for Establishing Religious Freedom" in Virginia, Thomas Jefferson wrote:

"That to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical."

The business of chaplains is to teach religion, and they should be paid by the monies of those who believe in religion.

It is a poor church indeed that thinks so little of its beliefs that it asks someone else to pay for its propagation. A church is in a bad state when its members have lost the zeal that carries them out to tell others of the hope and cheer and comfort their faith brings.

FIRST QUARTER

When any church loses its spirit of sacrifice it has little of worth left.

"Where your treasure is, there will your heart be also."

H. H. V.

### **American Servicemen Build Their Own Church**

A SMALL GROUP of Americans living near Windsheim in the American zone of Germany became concerned over the absence of a suitable location for their religious worship and erected a chapel for all religious faiths.

The military personnel and the dependents, assisted by some German volunteer workers and one or two others, worked for a number of months to complete the chapel. The pews for the church were made from scrap lumber. "All the appointments, such as pulpit, altar, cross and candelabra and other items were turned out by hand from scrap material. . . . Women of the community secured salvage blankets and dyed them a deep maroon for curtains and other hangings, and made scrap sheets into choir robes. The steeple bell was secured from the Rothenbach Scrap Depot. All through the construction period, no money was expended by any individual, nor was any used from Government funds."

It is refreshing to learn of such an experience. Doubtless worshipers in the church will have a special interest in all the services because its building and equipment were a community project. When people are interested enough in religion to sacrifice time and effort to provide a suitable and appropriate place of worship, they look upon it as a spiritual home.

With all the calls that are being made by various religious groups for the government to furnish all sorts of things that should rightfully be given by church members, it is heart warming to know of an incident like the one here recited.

H. H. V.

### **Church Problems in Australian Civil Courts**

SOME TIME AGO the Anglican bishop of Bathurst, in New South Wales, issued a small book containing a communion service and other aids to worship. Some of his co-religionists felt that the book contained deviations from the standard modes of worship laid down in the Book of Common Prayer, and carried the matter to the supreme court of one of the Australian states. Because he did not like this court's decision, the bishop appealed to the Australian high court. There the case was heard by four judges who divided two to two in their judgment. Thus the bishop lost his appeal and was legally restrained from pursuing the course that he had been following.

All the judges of the supreme court criticized the bringing of such a problem before a civil court. A good many Australians think that the church in their country should be autonomous and have a constitution of its own.

We do not know much about established churches, but it is our belief that a matter of doctrine or practice in the church should be decided by church authorities rather than by the civil authorities. And we are sure that Christianity is not helped when its proposed followers engage in litigation in the civil courts to decide matters of church doctrines.

H. H. V.

### **State Support of Clergy in Czechoslovakia**

IT IS REPORTED that in Czechoslovakia the government is planning to release a new directive concerning the relationship of church and state. Under the new arrangement, if the information that we have is correct, priests and ministers will be paid by the government and must be approved by political authorities before they can be called to a parish. The government undertakes to assure religious freedom for all churches and for believers of all kinds who remain loyal to the state.

We wonder what kind of freedom a church can have when its clergy is supported by the state. It is an old saying that the "one who pays the piper calls the tune."

There is a proper relationship between church and state. Every clergyman owes an obligation as a citizen to his government. But there are duties which he must discharge in his service to God with which no state has a right to interfere. If he is true to his calling, he may have to speak out against the civil powers in defense of the inherent rights of man.

The minister, the priest, the rabbi, is a representative of the body which called and consecrated him, and must give first service to it. Nothing must come between. Nothing must be permitted that could raise a question as to where his first obligation lies. The Scriptures say:

"Do ye not know that they which minister about holy things live of the things of the temple? and they which wait at the altar are partakers with the altar? Even so hath the Lord ordained that they which preach the gospel should live of the gospel." 1 Cor. 9:13, 14.

H. H. V.

### **Prayer in U.N. Assembly**

THERE HAS BEEN considerable talk by various religious groups over the fact that the United Nations Assembly has not been opened by prayer.

Now Mr. Martin Schwaebler has offered \$1,000 as an award for a prayer to be used to open each

session of the United Nations which will serve as "an expression of faith" to which all member nations can subscribe. He thinks it is possible for a prayer to be formed that would not lead any member to feel he was abandoning his own beliefs if he should listen to and approve it.

Mr. Schwaebler, in a letter to Mr. Trygve Lie, secretary general of the United Nations, said, "If we cannot agree on such a generalized matter, how can we hope to achieve unanimity on the many more specific problems that confront us?"

We do not know of anything that would be more specific than religious beliefs. A good many religious wars have troubled the world. We wholeheartedly agree that everyone should have a right to worship God according to the dictates of his own conscience, without interference from others; but we have the fear that a prayer that would be general enough to take in everybody's belief would be so broad that it would not amount to much.

H. H. V.

### **Sentenced to Attend Church**

AGAIN IT IS NECESSARY in these columns to call attention to the unconstitutionality of efforts by justices sitting on the bench to punish those guilty of misdemeanors by sentencing them to attend Sunday school or church.

Last July two seventeen-year-old boys were arrested in the State of Michigan for damaging some electric signs with an air pistol. They were convicted of malicious destruction of property, but the circuit judge before whom they appeared placed them on probation. However, he ordered them to become affiliated immediately with a church, and to attend the church services.

We have heard of parents who have punished their children by making them read the Bible or perform some other religious exercise. We think this is bad discipline and a very efficient way to make those punished hate religion. But it is something more, something worse, when a court of law sentences those guilty of misconduct to make a profession of religion. No person should be compelled to be religious. Religion is a good thing. When sincerely professed, an ethical religion has a good effect upon its professors. But forced religion can never produce anything but hypocrites, and to compel a profession of religion as a punishment for public misconduct is not only unwise but in this country definitely unconstitutional.

In a recent issue of *LIBERTY* reference was made to a Virginia case, *Jones et al v. Commonwealth* [38 S.E. (2d) 444. 1946], in which the Supreme Court of Virginia reversed a lower-court decision requiring boys convicted of a misdemeanor to attend Sunday school each Sunday for the period of one year. We believe that the Michigan courts will rule in this mat-

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ter on the same high level of justice maintained by the Virginia court.

F. H. Y.

## **N.J. Protestant Clergy Enter Bingo Issue**

THE *Religious News Service*, in its release of October 20, 1949, had the following:

"NEWARK, N.J.—A statement criticizing the distribution in the Roman Catholic Archdiocese of Newark of circulars urging the support of Elmer H. Wene, Democratic candidate for Governor, because he favors bingo legislation, was issued by the Ministers' Association of Bloomfield.

"The association said it was 'shocked to learn of the intent of certain groups throughout Essex County and the state to project the bingo issue and the Roman Catholic Church into the political contest for Governor.'

"Parochial school financing is not an issue in this campaign,' the statement declared in reference to 'press reports that bingo is needed for Catholic educational purposes.'

"The association recommended that the clergy present the matter to their parishioners, explaining the implications of 'this latest move in the political arena of this state.'

"Meanwhile, the Council of Churches in Trenton, the state capital, said it was opposed to 'all forms of gambling' and added, 'we reaffirm our position on separation of Church and State.' No direct reference was made to the bingo issue.

"Also, Bishop Fred P. Corson, resident head of The Methodist Church in the Philadelphia area, decried the injection of the bingo issue in the New Jersey campaign.

"In telegrams sent from the Camden headquarters of the area's New Jersey Conference to the Republican and Democratic gubernatorial candidates the bishop declared:

"Let it be clearly known that legalized bingo is not indorsed by the Methodist Church. Methodists do not need and do not want gambling in any form to support their work.

"We believe gambling to be immoral and a menace to society and good government. Methodists of the New Jersey Conference, by official resolution, call upon the representatives of our government to suppress this evil.'

"Bishop Corson announced that he was sending a circular letter to all Methodist ministers 'asking them to protest against the revival of the bingo issue in this campaign.'

We hope the Protestants will not undertake to tell people how to vote. It is just as bad for Protestant ministers to be mixed up in politics as Catholics. Years ago we read in the *Catholic Mirror* a letter which a priest addressed to a group of Protestant

clergymen who had invited him to join them in bringing pressure upon civil officers for the arrest of some who had violated a Sunday law. We were much impressed by these words of the reply which Father O'Keefe sent:

"It is not, then, with me a question of right, but one of expediency as to whether I could consent to mire my priestly robes in the turbid and foul waters of muddy politics."—*Catholic Mirror*, Nov. 9, 1895.

H. H. V.

## **Catholics Take Side in Jersey Election**

THE *WASHINGTON Post* had this in its issue of October 17, 1949:

"Newark, N.J., Oct. 16 (NYHT).—The Roman Catholic Archdiocese of Newark has embarked on a circular campaign supporting Elmer H. Wene, Democratic candidate for Governor, because of his stand in favor of a bingo referendum, it was learned today.

"Parish bingo games, long a political issue in New Jersey, are the source of financial support for Roman Catholic educational institutions. Entrance of the Catholic forces into the campaign on the bingo issue was considered a serious blow to the reelection campaign of Gov. Alfred E. Driscoll.

"A meeting of 400 nuns representing teachers and principals heard the pamphlet campaign explained by Auxiliary Bishop James A. McNulty and the Rev. Dr. John J. Dougherty of Immaculate Conception Seminary, Darlington, N.J.

"It was explained that pamphleteering will not be carried on directly through the churches. But since bingo receipts are considered vital to educational institutions and facilities, the circulars will be distributed through schools, church societies and Catholic veterans and youth organizations.

"The pamphlet, 250,000 of which have been printed, is entitled 'The Bingo Memorial of the Constitutional Convention.' Under the heading, 'Logical Conclusion,' it says: 'If a Republican administration, Governor, Senate and Assembly are elected, the bingo memorial submitted by the constitutional convention to the Legislature is dead.

"The possibility of a referendum giving the electorate of the State an opportunity to vote on bingo is dead. The rights of the electorate are thus arrogantly denied by the Republican leadership.'

Never having played bingo, or never having seen a game played, we turned to Webster's New International Dictionary, printed in 1944, for a definition. We found that the word is relatively new, being given in the New Word section. For a definition reference was made to *beano*. This was said to be a variety of *keno*. *Keno* is described as a "form of lotto used in gambling." Every reference to bingo connects it with gambling.

It is reported that the present governor, Alfred Driscoll, who is up for re-election, has spoken thus against bingo: "Some people characterize bingo as harmless pastime. I say it is gambling." His Democratic opponent, Elmer H. Wene, is reported to have said that he "saw nothing wrong with bingo."

*Time* magazine of October 24, 1949, commenting on this whole business, said: "In defense of bingo, the Roman Catholic Church plunged deep into New Jersey politics."

In some places the Roman Catholic Church is the only organization that is allowed to operate bingo games. Evidently in New Jersey these games have been in operation a considerable time, because they are referred to as being considered "vital to educational institutions and facilities" of the Roman Catholic Church. It seems a terrible thing when a church has to turn to such support.

This action by the Catholic leaders in New Jersey seems to us to be the baldest threat to use the power of the church to intimidate candidates for public

office that we have ever seen or heard of. The Roman Catholics of this country have always rightly resented the efforts of the Ku Klux Klan to defeat any Catholic who ran for public office. Here the Roman Catholic Church, acting under the authority of one of its auxiliary bishops, and a priest connected with a seminary, dares to strike at anybody who happens to be against bingo. How does this differ from the Ku Klux Klan method?

We do not believe that such an action will help the Roman Church in New Jersey or in the nation at large. When Cardinal Spellman attacked Mrs. Eleanor Roosevelt recently, the reaction was far from favorable. We think this latest outbreak of intolerance and political dickering will not be any better for Rome.

H. H. V.

[Since the two editorials above were written, an election has been held, and the present governor, Alfred Driscoll, who opposed bingo legislation, was re-elected.]

## Sunday Law Enforcements Across the Country



**SUNDAY LAWS** are religious laws. Whenever the state enforces them it is enforcing religious laws. It cannot be denied that this is a union of church and state. Seldom, if ever, in the history of the world has the church as such had the power to enforce its dogmas. Again and again she has called upon the state to punish heretics and has denied culpability by claiming the acts of oppression and persecution were committed by the state.

Thousands, possibly millions, in the United States of America would vehemently deny that a man could be prosecuted and persecuted for his religious belief in this country. But the great majority of the States of our union have some kind of religious laws on the statute books. Whenever a fanatic feels the urge to have all others follow his belief and practice, he is generally not willing to take the slow method of persuasion, and wants the aid of the state.

We have gathered here a number of news items that are revealing:

"Roy Trantham of 45 Broadview Avenue was fined \$50 and taxed court costs in Police Court yes-

terday for violating Asheville's 'blue law' in a test case to be taken to the State Supreme Court.

"Trantham, owner of Trantham's Food Store on Hendersonville Road, was convicted specifically of violating Chapter Two, Article 17, Section 199 of the Ordinances of the City of Asheville, which prohibits the sale on Sunday of anything but 'gas and oil, drugs, medicine, druggist sundries, cigars, tobaccos, fruits, ice cream, confections, nuts, soda and mineral waters, breads, pies, cakes, newspapers, periodicals.'

"George Pennell, attorney for Trantham, immediately moved for an arrest of judgment, but the motion was denied. Trantham, through Pennell, then gave notice of appeal to Buncombe Superior Court. No appeal bond was required.

"Pennell termed the city's 'blue law,' passed in 1898, 'ludicrous,' 'antiquated,' and 'unreasonable,' and 'discriminatory.'

"Judge Sam M. Cathey, presiding, agreed, but said study of the matter had convinced him that the ordinance is valid.

"I feel this is a matter for the legislative committee of the City Council," Judge Cathey said.

"All the courts can do is try to interpret the laws to the best of their abilities, since the courts have nothing to do with making them.

"I know it seems ridiculous that a man can buy an unnecessary luxury like a cigar on Sunday, but can't buy a necessity like a can of beans for a hungry family, but there is nothing the courts can do about it.

"This problem needs new legislative action."

"Trantham and two other grocers were arrested Sunday, May 1. Trantham's case was heard May 14, when Judge Cathey took it under advisement. The cases of the two other grocers, Harry Gietzentanner of 217 Merrimon Avenue and George Tingle, manager of Don's Grocery, 67 Valley Street, were continued to September 30.

"Pennell said shortly after the arrest of the three that he had been retained by some 50 grocers to test the validity of the 'blue law.'

"The section of the City ordinances in question provides that 'garages and filling stations, drug stores, cigar stores, confectionery stores, shops, stands and bakeries . . . shall be allowed to operate on Sunday' for the sale of the merchandise listed 'and for no other purpose.'

"Another section prohibits the playing of 'billiards, tenpins or pool' on Sundays.

"A third section makes it 'unlawful for any person or persons to engage in or play any game or games or operate any place of amusement or public entertainment between the hours of 7 a.m. and 1 p.m. and 7 and 9 p.m. on Sundays.'"—*Morning Citizen*, (Asheville, N.C.), May 25, 1949.



"Martinsburg, W. Va., June 20 (AP)—Lou Kusner, manager of two local theaters, paid a \$5 fine today on charges of violating Martinsburg's Blue laws by showing Sunday movies."—*Times-Herald*, Washington, D.C., June 21, 1949.



"Columbus, Miss. (UP)—A new trial was set for today after a six-man jury failed to reach a verdict in the case of R. B. Dossett, theater operator, charged with showing movies on Sunday in violation of blue laws.

"Dossett, his brother, Curtis Dossett, and Edwin Andrews were arrested after they showed a film at

their drive-in theater June 6. They were released under \$500 bond each."—*New Orleans Item*, June 7, 1949.



"Pine Bluff, June 9.—Mayor George Steed has called a special meeting of the City Council for 4 p.m. tomorrow to consider revision of two ordinances passed in 1872 which prohibit retail sales or anyone's working or causing anyone else to work on Sunday.

"The meeting was called to give the aldermen an opportunity to try to remedy a situation, which threatens to close every place of business here, recreation centers, and even the distribution of newspapers on Sunday.

"A movement to enforce the ordinance developed after the operators of two bakeries here had been fined \$25 each for remaining open on Sunday.

"Hendrix Rowell and R. A. Zebold, lawyers for the bakeries, discovered today that Cotton States League Sunday baseball games here cannot be stopped nor spectators arrested for watching a game. An act passed in 1929, and voted on by the citizens of Jefferson county in 1931, was found in the records at the Jefferson county courthouse. Playing hours are limited to 1 p.m. until 6 p.m.

#### "More Arrests

"An affidavit for arrest of George Hestand, owner and operator of Hestand's super market here, was signed in Municipal Court this morning by Hans G. Koberlein, and a subpoena was issued for Jewell Taylor, Arkansas Democrat distributor here, as a witness in the case.

"Aubrey Poss, superintendent of the Southeast Arkansas Bus Company, operator of Pine Bluff's city bus line, was arrested this afternoon on a warrant issued by C. E. Scharbert of Route 6, Pine Bluff. Mr. Poss is charged under the section prohibiting work or causing anyone to work on Sunday. His hearing is set for 3 p.m. Wednesday.

"Mr. Hestand, who, Ira Dean, president of the Retail Grocers Association, said was responsible for the first blue law affidavit being filed here, is in Shreveport, La., Detective John Tolbert reported, and will not return until tomorrow night. The warrant will be served as soon as Hestand returns, Tolbert said.

"Mrs. L. A. Galloway, Memphis Commercial Appeal distributor, will be given a hearing in Municipal Court next Wednesday, as will Armistead Freeman, circulation manager for the Pine Bluff Commercial, and Charles Norton, Arkansas Gazette distributor here, who was served with a warrant by Detective Tolbert this afternoon.



"K. C. Parsons, supervisor at Oakland park, and Paul A. Scrimaber, concessions manager at Oakland Club, will also have court hearing Wednesday afternoon."—*Arkansas Gazette*.

"Pine Bluff, June 10 (AP)—The Pine Bluff City Council today removed the threat that the city would be 'closed up tight' on Sundays.

"At a special session, the eight aldermen unanimously voted to exempt from old ordinances against 'Sabbath breaking' some dozen or so 'essential' businesses and industries. The amending ordinance is effective immediately.

"At the same time, City Attorney T. A. Eilbott Jr. said that charges pending against Sunday newspaper distributors, two city park employes, a baker and the superintendent of the city transportation system here would be dismissed.

"Fines already imposed against two bakers and one Sunday newspaper distributor will be remitted, he said.

"Rev. Lloyd A. Sparkman, Baptist, president of the Pine Bluff Ministerial Alliance, asked the council not to be 'stampeded' into exempting some businesses he said weren't essential.

"A large crowd attended the session, but no one else spoke.

"Spokesmen for persons who objected to the old laws had threatened to 'close up the town' on Sundays if the ordinances, one adopted in 1872 and another in 1904, weren't changed.

"The agitation started after two bakery owners were fined several weeks ago for operating on Sunday. Since then there has been a series of other warrants, most of them obtained with the announced purpose of obtaining modification of the old laws.

"Exempted today from the old laws—one against working or causing others to work on Sunday and the other against making retail sales on Sunday—were 'newspapers, newspaper distributors and carriers, drug stores, eating establishments, hotels, florists, bakeries, dairy and dairy products, auto service stations, ice companies and ice depots, outdoor recreation facilities, park concessions, live fish bait (Pine Bluff has a 'worm ranch' which is a thriving industry), cigar, tobacco and cold drinks, transportation and public utilities.'

"Sunday baseball and motion pictures are exempt under existing ordinances."—*Arkansas Gazette*.

"Pine Bluff, June 13.—All traces of the Sunday blue law violation here will be removed from court records Wednesday when City Attorney R. A. Eilbott Jr. recommends that all charges of retailing on Sunday and laboring on Sunday be dismissed. The court is expected to accept the recommendation.

"Mr. Eilbott this afternoon said he had notified police to advise persons whose hearings were set for Wednesday that they need not appear.

"The last warrant for a blue law violation was served today, although City Council Friday repealed the law by listing 'necessary' Sunday businesses. The warrant was against George Hestand, who had been out of the city and did not return until this morning. It will be handled exactly as those against the City park supervisors, newspaper distributors, and the city bus company—dismissed.

"Mr. Hestand this afternoon said he had made no decision as to whether he will segregate his bakery from his grocery and market, or will remain closed on Sunday."—*Arkansas Gazette*.



Some of the New York City papers of September 15, 1949, carried the story of a man who ran afoul of a Sunday law while doing a friendly deed for his landlord. This latter gentleman, Mr. Louis Nattioli, "isn't too well or strong," and the tenant, Mr. Peter Cullen, assisted him and his son in painting the house. All received summonses to appear in court. Mr. Cullen and young Mr. Nattioli were given suspended sentences, while the case of the other man was continued until later.

A dozen other persons in court the same day for Sunday law violations of one sort or another were fined five dollars each. The next Sunday a number more received summonses for building a porch, making alterations to a store, selling salad oil, grinding stale bread into food for animals, et cetera. A barber cut the hair of a neighbor's son but did not charge him anything for doing it, because the penalty for doing barber work for pay is at least a twenty-five dollar fine, and the judge might add twenty-five days in jail.



"Marion, June 28 (AP)—Marion residents voted Tuesday, 506 to 312, to continue the ban against Sunday baseball.

"Voters decided that all ordinances prohibiting the playing of the game of baseball on Sunday in the town of Marion shall be kept in full force and effect.

"The referendum had been called by the board of aldermen after numerous petitions had been received favoring and opposing the ordinances.

"Elections officials considered the balloting heavy with a total of 822 votes cast."—*News and Observer* (Raleigh, N.C.), June 29, 1949.



"Hattiesburg, Miss., July 3—Six motion picture theaters operated Sunday night despite police efforts to enforce state laws providing for their operation only from 1 p.m. to 6 p.m. on Sunday.

"Between 6 p.m. and 7:30 p.m. 22 theater employees were taken to the police station, and released on \$100 bond each. The employees, including managers, ticket sellers, ticket takers and projectionists, returned to their jobs and were arrested again.

"A total of 50 charges were filed against the 22 persons by 9:30 p.m.

"Stand-in employees were available at each theater and were filling in while the employees on duty were being taken to the police station.

"Large crowds gathered in front of the two main theaters in this city of 40,000 to watch the proceedings."—*Times Picayune*, July 4, 1949.



"Milton, Oct. 4—Police Chief John B. Shields today pledged his department to all-out enforcement of state blue laws prohibiting laborious work on the Sabbath and has instructed his men to warn householders against such tasks as raking leaves on Sundays.

"From now on the 'blue laws' will be enforced in the Blue Hills, according to the chief. He said it has been a long-standing custom to discourage work on Sundays in the town except in cases of emergency for which permits are granted.

"When the chief was reminded by newsmen that other communities do not ban ordinary back-yard chores on Sundays, the police head said, 'Where are you going to draw the line?' He added, 'One man will be attending to his lawn while a neighbor may be shingling a roof or building a garage.'"—*Evening Globe* (Boston), Oct. 4, 1949.

The Boston *Post* of October 10 reported what happened and what did not happen in Milton the day before.

#### "Not a Leaf Stirred"

"Not a leaf stirred and not a mower whirled, but there was a pair of the loudest of loud speakers hooked up at Milton High School Athletic Field, where the Milton Merchants, a semi-pro football team, and the Neponset V.F.W., another semi-pro team, were having a contest. And, to make it official, no less than eight policemen and a sergeant were detailed there while the crowds roared, the loud-

speakers screamed, and the echoes rang off the rooftops a mile away."

Perhaps it would be impossible to point out the inconsistencies and the inequities of most Sunday laws in a more forceful way than this writer has done. If men—churchmen—would only learn that such results, or worse ones, always come from the mixing of church and state, we might hope to have Christianity practiced as its Author intended it should be.



The Attleboro (Massachusetts) *Sun* of October 3, 1949, carried the following Associated Press dispatch:

"Sunday Truck Law to Be Tested. Fall River (AP)—Test of a law which, if upheld, would bar trucks from Massachusetts highways on Sundays, was begun in district court yesterday when eight truck drivers were charged with violating the statute.

"Seven pleaded innocent and their cases were continued to next week, while the eighth was declared defaulted.

"Complaints brought by State Trooper William J. Harvey were based on a state law declaring that 'whoever on the Lord's day keeps open his shop, warehouse or workhouse or does any manner of labor, business or work, except works of necessity and charity, shall be punished by a fine of not more than \$50.'

"Court attaches said the law, if enforced, also would apply to out-of-state trucks. They said they expected appeals if the law is upheld in district court.

"The complaints charged trucking in Swansea and Somerset on Sunday, July 17.

"The cases of George W. Cowen, 33, of Fall River, and Joseph Borges, 30, and Walter P. Wieneck, both of New Bedford, were continued to Monday.

"The cases of Louis Bibeau, 45; George R. Crowley, 43; Louis Governo, 46; and Jesse Ponte, 45, all of Fall River, were continued to Thursday.

"Leo E. Richard of Acushnet was ruled defaulted."



A blue law on the city statute books of Valdosta, Georgia, was dragged out a little time back to prevent certain businesses from being open on Sunday. "Nineteen grocers were given copies of charges and ordered to appear in Recorder's Court."

But the city council refused to prohibit the sale of ice "on the grounds that most Negro families and some white families did not possess adequate refrigeration facilities and they were not able to store perishables over the weekend."

## NEWS and COMMENT

### A Suit Denied

A TAXPAYER IN BROOKLYN sued to have *Oliver Twist* and *The Merchant of Venice* banned from use in the public schools because he felt that they were anti-Semitic. Justice Anthony J. DiGiiovanna exculpated both Dickens and Shakespeare. He held that "public interest in a free and democratic society does not warrant or encourage the suppression of any book at the whim of any unduly sensitive person or group of persons, merely because a character described in such a book as belonging to a particular race or religion is portrayed in a derogatory or offensive manner."

### Federal Aid for Hospitals Rejected by Alabama Baptists

THE ALABAMA BAPTIST convention here Thursday turned down federal aid for its Birmingham hospital expansion program on the grounds such help would be inconsistent with its stand for separation of church and state.

"The proposal was defeated 181 to 156 in a stormy early morning session at the Dauphin Way Baptist Church. The convention overrode an appeal by W. M. Beck, speaker of Alabama's House of Representatives and one of the hospital trustees.

"Opponents of the federal aid plan said the convention would have to repudiate the Baptist stand against federal aid to parochial schools, if it voted in favor of accepting government assistance.

"Beck argued that the convention would not violate the church's religious beliefs by using government assistance. He said the hospitals were badly in need of more rooms for its staff.

"He said the convention would have to go out of the hospital business unless the institution could be expanded.

"The convention then voted to offer the Birmingham hospitals back to the Birmingham Baptist Assn., from whom they were taken over a year ago.

"Hospital trustees had suggested that the federal aid could be charged off as a loan, with the money being repaid in the form of free service to indigent patients.

"Opponents called this suggestion a 'subterfuge,' since the federal aid would be an outright grant."—*Mobile Press* (Alabama), Nov. 17, 1949.

Alabama Baptists evidently feel as their co-religionists in Texas do about the use of public funds

for sectarian institutions. It takes a firm conviction to refuse money that can be had, and when the need is great, the temptation is especially strong.

We salute the Alabama Baptist convention!

### Arizona Governor Proclaims Good Friday a Partial Holiday

AT DIFFERENT TIMES we have referred to the fact that attempts have been made to recognize Good Friday legally in the Federal and in some State governments and in some municipalities. The following proclamation by the governor of Arizona seems to us to be outright presumption, and reveals an utter lack of understanding of the principle of separation of church and state:

"WHEREAS, Good Friday, the anniversary established by religious bodies as a memorial of the crucifixion of Christ, is observed throughout the Christian world; and

"WHEREAS, dedicated to silence and worship, Good Friday strengthens the faith which never fails us and speaks of the universal life which should bind all men not only to God but to one another; and

"WHEREAS, Good Friday signifies the real basis of Christianity and builds new hope and vigor in our struggle for a freer and a happier world,

"NOW, THEREFORE, I, Dan E. Garvey, Governor of the State of Arizona, in observance of

#### "GOOD FRIDAY

"April fifteenth, 1949, do direct that all departments of the state suspend activities from twelve o'clock noon until three p.m. on that day, urging that other public services and private concerns do likewise, in order that all our people may devote themselves to this time of special prayer and meditation and participate in church services during the sacred period of Good Friday.

"IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arizona to be affixed this twenty-second day of March, in the year of Our Lord One Thousand Nine Hundred and Forty-nine.

"DAN E. GARVEY

"Governor

"ATTEST:

"WESLEY BOLIN

"Secretary of State"



## Texas Baptists Reject Federal Aid

EL PASO, TEX.—The executive board of the Baptist General Convention of Texas adopted a report here urging its nine schools and five hospitals to shun federal or state aid.

"Following the Board's action, Dr. J. Howard Williams, executive secretary, disclosed that the Valley Baptist Hospital at Harlingen recently abandoned a request to the federal government for money.

"Dr. Williams explained that the hospital was to have raised \$500,000 and the government to provide \$274,000 for expansion. He said trustees called off the campaign after deciding that federal aid would be a violation of the Baptist position on the separation of Church and State."—Religious News Service, Nov. 3, 1949.

Good for you Baptists! Pay for your church institutions with church money or the free-will gifts of friends. Compromise of spiritual principles for secular gain is unthinkable.

## Has the Navy Joined the Catholic Church?

WHEN PRESIDENT TRUMAN appointed Francis P. Matthews secretary of the Navy the press emphasized his prominence in the lay activities of the Roman Catholic Church. Mr. Matthews' record, as given in *Who's Who*, lists a long line of Catholic offices and honors, including six years as supreme knight of the Knights of Columbus, a papal knighthood of the Order of St. Gregory, a knight commandership, a knight commandership with grand cross, elevation to the rank of Knight Commander with Grand Cross of the Knights of the Holy Sepulcher, and finally promotion to the lofty pinnacle of Secret Papal Chamberlain with Cape and Sword. No one, however, at the time of Mr. Matthews' appointment suspected that his church affiliations and dignities would exert any direct influence on his policies as head of the navy. But in the light of developments since Mr. Matthews took office, that opinion may have to be revised. Twice within recent weeks units of the U.S. navy have been ordered to display themselves at Roman Catholic events. The first such instance came when a squadron of destroyers was sent—of course at taxpayers' expense—to the convention of the Knights of Columbus at Portland, Oregon. In that fashion an effort was plainly made to add to the prestige of a Catholic fraternal order of which the secretary of the navy had until recently been the head. The second instance came early this month when a squadron of naval air reserve planes was sent to scatter roses over a Roman Catholic religious procession honoring St. Theresa at New Columbus, Pennsylvania. The planes made a flight of more than 100 miles from the naval

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air station at Willow Grove, near Philadelphia, to execute this mission—again, of course, at taxpayers' expense. What goes on here? This makes twice within three months that units of the U.S. defense forces have been sent to participate in a sectarian church affair. Does Mr. Matthews think he is running the U.S. navy as a Secret Papal Chamberlain with Cape and Sword?—Reprinted by permission of the *Christian Century* from the issue of October 19, 1949.

## The Church in Politics in Colombia

THE EL COLOMBIANO, published in Medellín, Colombia, in its issue for June 4, 1949, contained a whole page of what might be called in this country political advertising. The general heading is "The Colombian Bishops Speak on Elections. Clear Instructions Are Given to Catholics." The pictures of ten prelates, besides the Pope, are given on the page, with a statement from each one.

We do not know enough about Colombian politics to speak about them intelligently, but it appears from the statements of these Catholic leaders that they oppose the liberal candidates because they look upon them as "enemies of the church." The bishop of Santa Fe De Antioquia, for instance, says this:

"A Catholic, whatever may be the political party in which he is active, ought not to support the election of those who by word, by writing, or by deed are hostile to him, as are those who slander, discredit, or defame the clergy or the bishop; nor of those who have a bad history or immoral practices."

We can agree that political candidates of immoral practices can hardly expect the support of good people.

Bishop González of Pasto says:

"They sin gravely, who vote for the candidates included in the lists put forward by the liberal conventions of the present time, in which are mingled communists, liberals in teaching, liberals of vague and confused ideas, and liberals without ideas, who in the end will be docile instruments of the political ring-leaders."

It may be that the liberals of Colombia are all bad people; we do not know. But some folk think that the liberals are prompted by a desire to get the people of Colombia from under the heel of the church.

Pope Pius XII, among other things, said this:

"Catholics ought to give their vote only to those candidates who they believe with certainty will respect and defend the fulfillment of divine laws, the rights of Religion and the Church, both in private and public life."

Bishop Builes of Santa Rosa de Osos had this to say:

"In the present state of our country, it is not a question of merely a political struggle, but of a combat of the Religion of Christ and His sacred teach-

ings. Therefore, I, in my turn, invite all Catholics to go to the ballot boxes on June 5 to vote for the rights of Christ, under penalty of incurring the exceedingly grave sin of omission. And let those who have belonged to the liberal party reflect with holy calmness and abstain from giving their vote, which would be in this case a very serious mortal sin, because it would be against the Church and against the religious beliefs which they say they profess."

To plead for votes "for the rights of Christ," is to show a poor conception of either His teachings or His power. Long ago He said, "My kingdom is not of this world."

In a country where there is as much illiteracy as there is in Colombia the influence of the church is apt to be out of all proportion to anything that it may rightly claim for itself.

### **Episcopalians Oppose State Aid to Parochial Schools**

**SAN FRANCISCO, OCT. 1 (AP).**—Government aid to parochial or sectarian schools was condemned in a resolution submitted today to the House of Deputies at the fifty-sixth general convention of the Protestant Episcopal Church.

The resolution, which was referred to committee prior to a vote next week, termed such aid "an attempt to break the separation of the church and state set forth in the Constitution of the United States."

"The church believes that public funds should be granted only to institutions controlled by the public," it stated, "and opposes the granting of Federal or State funds to any religious organization."—*Post* (Washington, D.C.), Oct. 2, 1949.

### **The Pope Speaks on Divorce and Catholic Judges**

**AN ASSOCIATED PRESS DISPATCH** from Castel Gandolfo, Italy, on November 7, 1949, reported that Pope Pius XII had ruled that "the Catholic judge cannot pronounce, unless for motives of great moment, a decision of civil divorce (where it does exist) in a marriage valid before God and the church."

That the Pope's words were intended to apply beyond Italy is revealed by the fact that in speaking to the Italian jurists, he said, "Your duty is noticeably lighter in Italy, where divorce (the cause of so many interior conflicts for the Judge who must enforce the law) does not exist."

The Pope is further credited with saying that "a divorce decision leads to the erroneous consideration that the ties are broken and the new ties are valid and binding."

Vatican legal sources are credited with saying that "the Pope's pronouncement on divorce would have

the same weight on Catholic judges considering divorce cases of Protestants married in a Protestant church as on marriages of Catholics."

The pontiff told Catholic judges that they have "grave responsibility in applying laws contrary to Christian concepts. Often in the soul of the Catholic jurist who wants to keep faith to the Christian concept of right arise conflicts of conscience, particularly when he is compelled to enforce a law that his conscience condemns as unjust."

We are as much troubled about the divorce situation in this country, in particular, as anyone could possibly be. We believe in the sanctity of the home, and we are sure that a great deal of juvenile delinquency arises from the fact that homes are broken. But we question the right of the head of any church to counsel civil officials to refuse to obey what the state looks upon as a civil law when they are not forced to accept their posts but do so voluntarily either by election or by appointment. And the question troubles us all the more when that religious leader is also the head of a civil state. If Russia should attempt to tell our judges what to do, there would be a howl that would burst all our ear drums.

### **Our Liberties**

**WE ARE INCLINED** to avoid serious thought about freedom—as we do other fundamentals of life—until it is threatened. In view of what we see happening in the world today it is high time to ask: what is liberty? can we keep it? what shall we do to make sure we do keep it?

Doctrines our grandfathers held to be simple statements of fact are challenged in many quarters. Institutions painfully built up and guarded through centuries of struggle have been overthrown. The problem of keeping our liberties involves the whole of civilization.

The idea of freedom seems simple, the kind of thing we take for granted, and yet it bristles with difficulties. Most of us might be inclined to define liberty as being allowed to do what we want to do, to live without persecution, to work and earn a decent standard of living.

When we go farther, however, and think of the kinds of freedom, we run into complications, because civil, personal and political liberties are different in themselves and they sometimes interfere with one another. . . .

The freedoms that are necessary in a democracy seem to divide themselves into four major kinds: Natural liberty, national liberty, political liberty and civil liberty. These headings cover the individual's right to do as he chooses, the nation's right to stand as a sovereign power, the right of popular or representative government, and the rights and privi-

leges created and protected by the state for its subjects. . . .

There is conflict in individual liberties. . . . The right of free speech does not carry with it a license to slander; freedom of religion does not effect a complete release from civic responsibility; liberty of the person does not imply the abolition of prisons. In fact, freedom along certain lines always implies restrictions along other lines. . . .

There is no liberty save in responsibility. The man who is not responsible for something in the way of a contribution to human welfare is not behaving as a free man should. There are things which it is his duty to do, and he may rightfully be made responsible to society if he does not do them. . . .

The price of liberty is not only eternal vigilance but unceasing work. We are careless about making our principles known, about making sure they are kept in mind by governments, about seeing that every last one of them is observed on every occasion. Liberty must be struggled for, achieved and jealously guarded even in the homes of its friends. The maintenance of liberty has to be fought for every day afresh, lest the lazy acceptance of some particular imposition give a foothold to some party that will end up by imposing a general tyranny.

Some of the greatest tragedies in history tell of the remorse of those people who did not realize the value of human freedom and personal liberty until these rights had been snatched away or stealthily removed. —"The Royal Bank of Canada Monthly Letter," August, 1949.

## Will There Be Religious Freedom in Israel?

THE CENTRAL CONFERENCE OF AMERICAN RABBIS some time ago sent to the President and the Prime Minister of the state of Israel a message asking "that when, in the new state, the relationship between church and state will have been definitely established, the relationship will be one of full liberty and equality for all shades of religious opinion."

It would seem that the Jews, after all they have suffered in many lands of the world because of religious laws, would be quick to make sure that church and state should not become united in Israel. It is one thing, however, to talk about religious liberty when the other fellow is in power and quite another thing to practice it when one comes into power. Human nature seems about the same in all parts of the world and among all peoples.

We understand that the Central Conference of American Rabbis has been much concerned about some of the things that have been taking place in Israel. We trust that their message will be heeded by the state of Israel.

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## U.S. Prods Russia on Priest for Embassy

THE UNITED STATES prodded the Soviet Union yesterday on its delay in issuing a visa to the Catholic chaplain-designate of the United States Embassy in Moscow.

This matter and the long-stalled settlement of the \$10,800,000,000 wartime lend-lease account with Russia were taken up with Ambassador Alexander S. Panyushkin during a 15-minute interview to which Acting Secretary of State James E. Webb had summoned him.

The Rev. Arthur O. Brassard, an Assumptionist father of Leominster, Mass., has been waiting since February for a Russian visa so he could proceed to his post in the Moscow Embassy.—*Post* (Washington, D.C.), May 26, 1949.

## Peruvian Catholic Defends Divorce Laws

IN THE AREQUIPA (PERU) *Noticias* of September 16, 1949, Dr. Munoz Borja, one of the outstanding lawyers in Arequipa, wrote in opposition to the attempt of the Roman Catholic Church to have the government abolish divorce. Among other things, Dr. Borja said:

"Peru is a Catholic country and since the indissolubility of marriage is one of the principles of the Catholic Church, divorce should not be adopted in its legislation.

"It is not necessary to recur to this, and it would be better to keep the religious phase out of other activities, to avoid, precisely, those conflicts in which the church often sees itself involved. She has in her hands adequate means for getting her parishioners to repudiate divorce and not to resort to it even when the marriage proves to be intolerable and clearly prejudicial for the children. Automatic excommunication can be decreed for those Catholics who depart from such a precept, and it is not necessary to resort to the compulsion of the state against everybody, Catholics and non-Catholics, believers and unbelievers. And just as the church would protest, with just reason, against having her faithful obliged to practice acts contrary to their beliefs, in a state in which the majority of the citizens belong to another creed, so it should not be claimed that the state in which the majority is Catholic, should oblige the nonconformers and the unbelievers to maintain the indissolubility of marriage, which, in my judgment, cannot be sustained."

It is often claimed that complete religious liberty is as precious to the Roman Catholics as to anyone else, but in countries where the church is in power it is not always manifested. It should be added that Dr. Borja is a devout Roman Catholic.





## Federal Aid to Schools

**THE PRESENT STALEMATE** in Congress with reference to federal aid to education is a matter of grave concern. The central principle of a national minimum of educational opportunity for all the children in all the public schools of all the states is widely accepted; but the controversy over the secondary question of certain services, such as free transportation and health services, to children in non-public schools has impeded the enactment of any measure of federal aid. The deadlock is sustained at the expense of the children in the schools and their teachers. This ought not to be tolerated.

We believe that the sound and practicable way out of the legislative stalemate would be to treat aid to schools and the supplying of welfare services to children as separate projects. Each should be decided on its own merits. In accordance with previous statements of the Council, we urge that prompt provision be made for federal aid for the maintenance of public schools, with assurance that in its administration there be no discrimination on account of race. We further urge that, as a separate matter unconnected with grants for schools, open-minded consideration be given by Congress to the need of all children of school age for certain welfare services. We believe that if federal aid is made available for such services, they should be administered or supervised by a public agency.

By thus drawing a clear distinction between aid to schools and welfare services for children, we believe that necessary assistance can be given to education without making it the object of sectarian controversy or compromising the principle of the separation of Church and State for which the Council has always stood.—*Federal Council Bulletin*, October, 1949.

## Arkansas Parochial School Aid Denied

**AT THE LAST** session of the Arkansas legislature, an appropriation of \$50,000 was made to the State Board of Pharmacy. The State of Arkansas does not operate a school of pharmacy, not even at its State university. It seemed to be generally understood when the appropriation was made that it

would be passed through the State Board of Pharmacy to the Department of Pharmacy of the College of the Ozarks, located at Clarksville, Arkansas, which is a religious institution, being owned and operated by a Protestant denomination.

A taxpayer, one Mr. F. B. Garrett, brought suit in the Pulaski Chancery Court, asking that the State auditor be temporarily restrained and enjoined from issuing any State warrants under any purported authority, and that "the State Treasurer be temporarily restrained and enjoined from disbursing any funds under and by virtue of the provisions of the purported Act No. 166 of 1949. That upon a final hearing said temporary order be made permanent and that the plaintiff recover his costs and have all other proper and equitable relief."

The complainant charged that the College of the Ozarks is "a privately owned, maintained and operated denominational school where the tenets of a particular faith are taught, and that as such was not entitled under the Constitution and laws of the State of Arkansas to an exclusive grant of the public money."

On October 25, 1949, the Pulaski Chancellor, Frank Dodge, issued the following decree:

**"IN THE PULASKI CHANCERY COURT**  
**"F. B. GARRETT** **PLAINTIFF**  
**vs.**  
**"OSCAR HUMPHRIES,**  
**STATE AUDITOR**  
**and J. VANCE CLAYTON,**  
**STATE TREASURER** **DEFENDANTS**  
**DECREE**

"Now on this day this cause coming on to be heard, comes the plaintiff in person and by Neill Bohlinger, his solicitor, and come the defendants by the Hon. Ike Murray, Attorney General and Hon. Robert Downie, Assistant Attorney General, and by agreement between counsel the defendants' answer is held to be amended to include a general denial of every material allegation in the complaint.

"The cause is thereupon submitted to the Chancellor upon the stipulation and exhibits introduced into the record by the plaintiff and the oral testimony of witnesses in behalf of the defendants, and the court being well and sufficiently advised on all matters of law and fact herein doth find the issues for the plaintiff.

"It is, therefore, considered, ordered, adjudged and decreed by the court that Act No. 166 of the Acts of the General Assembly of the State of Arkansas for the year 1949 is invalid and void and the defendants, Oscar Humphries, State Auditor and J. Vance Clayton, State Treasurer, are hereby permanently restrained and enjoined from issuing or cashing any warrants issued or presented under or by virtue of the provisions of the purported Act No. 166 of the Acts of

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the General Assembly of the State of Arkansas for the year 1949 and the court retains jurisdiction hereof for further orders in the enforcement of this decree and it is further ordered that the plaintiff recover his costs. .

"[Signed] CHANCELLOR"

The *Arkansas Gazette* of October 26, 1949, quotes Chancellor Dodge as saying, "The principle is very bad. The first thing you know you will have other denominational schools seeking State support. You would get into a situation where the longest pole would get the persimmon."

The *Gazette* also carried the following editorial, which, we think, is sound in its reasoning:

*"The Basic Principle"*

"There are 898 registered pharmacists in Arkansas, and their average age is over 50. This, said Herbert W. Parker of the state Board of Pharmacy, indicates the need of a pharmacy school in the state.

"There is little argument that Arkansas needs such a school. But there is a real and valid argument over the course taken by the recent legislature when it appropriated \$100,000 [for two years] to be used in support of the pharmacy school at the College of the Ozarks.

"The cost of establishing an accredited school would run, according to some estimates, as high as \$500,000, and the annual operating costs would be in the neighborhood of \$200,000. In view of the inadequate support now available for other educational purposes, neither the University of Arkansas nor any other state college has been willing to undertake the burden. For these practical reasons the legislature went along with the proposal that the state foot about one-fourth of the bill at the College of the Ozarks' school for the next two years.

"The legality of the move was questioned by some legislators at the time, and now Pulaski Chancellor Frank Dodge has ruled that the appropriation for the Presbyterian college violates the constitutional requirement of separation of church and state. Wisely, we think, he has ordered the state to refrain from spending any portion of the money until the Supreme Court can rule in the matter.

"Officials of the College of the Ozarks have testified that their institution's denominational affiliation in no way restricts attendance at the pharmacy school, which now draws 90 per cent of its students from Arkansas. We have no doubt that this is the case. But, as Chancellor Dodge pointed out, a serious precedent is involved. The people of Arkansas have reason to be

grateful to the College of the Ozarks for its long record of service in the general fields of education, as well as for its establishing of a needed professional school. But there is good and sufficient reason to question the propriety of expressing that gratitude through the appropriation of public money for the direct support of a denominational college."

## Council of Churches Proposes Compromise on Education Bill

NEW YORK, SEPT. 20 (AP)—A plan to break the deadlock over the federal aid to education bill—in Congress was proposed today by the Federal Council of Churches of Christ in America.

The council represents 27 Protestant and Orthodox faiths with a membership of 29,000,000.

Under the council's plan, direct aid to schools and the supplying of welfare services would be handled as separate issues, each to be decided on its own merits.

"We urge that prompt provision be made for federal aid for the maintenance of public schools," the council's executive committee said in the resolution.

It added that this should be done "with assurance that in its administration there should be no discrimination on account of race."

On the other hand, the council suggested that welfare services for school children receive open-minded consideration from Congress, and such services should be handled by a public agency other than the schools.

School aid bills in Congress have been held up since the beginning of the session last January—mostly over the issue of aid to parochial schools.

Members opposing federal transportation and welfare funds for parochial schools say it would violate the separation of church and state called for in the Constitution. Their opponents claim that not to supply the funds would be discriminating against children.—*Times-Herald* (Washington, D.C.), Sept. 21, 1949.

EWING GALLOWAY



FIRST QUARTER



## Separation of Church and State in Costa Rica Denied by Convention

MANY OF THE Central American and South American nations have embodied much of the American Constitution in their supreme laws. Coming into freedom from Old World domination later than the United States did, they had an opportunity to profit by the things that this nation had learned.

The original American Constitution lacked something that was early noticed, and Ten Amendments, commonly called the Bill of Rights, were added. A part of the First Amendment is often quoted; the latter part not so frequently. The last words of this amendment are: "And to petition the Government for a redress of grievances."

The recognition of this basic right to appeal to governmental leaders through the petition has meant a good deal to Americans generally. Evidently some people in other nations also recognize and practice the right of petitioning their governments.

When the Costa Rican Assembly undertook to revise its constitution recently, it provided for the establishment of a state church. Five hundred people representing the Committee of Evangelical Action presented the following petition:

"Honorable National Assembly for the Reform of the Constitution, City

"Esteemed Members of the Assembly:

"Now that the Honorable Assembly has begun final revision of the new National Constitution, the hour has come in which, according to what was told Constituent José Mariá Zeledón Brenes in the session of the twenty-fourth of last August, it is appropriate to deal with the petition; presented by the Committee of Evangelical Action, requesting that the article referring to the establishment of a State church be reconsidered. We, the undersigned citizens of Costa Rica, in full exercise of the rights of citizenship, do here subscribe to this petition, for the following reasons:

"1. *Because the article referred to contradicts other articles of the Constitution.*

"On this point we shall cite only the article which says, 'All men are created equal before the law.' If all are equal before the law, this [law] cannot at the same time favor some [persons] more than others. To create a State church is to create for that church, for its ministers, and for its members, a position of privilege above other churches and other citizens.

"Whether these privileges consist in the official recognition of its clergy and of the acts which they perform, or whether they be of an economic or social order, or of any other kind, their very existence

violates and renders of no effect the precept that all men are equal before the law.

"2. *Because it violates our rights as citizens of Costa Rica.*

"The article, to which objection is made, says that the State will contribute to the maintenance of the favored church. This it does [or, will do] with money which it collects both from those who profess the official creed and from those of us who do not profess it. In other words, the State takes the money of those of us who belong to churches not favored, or to none, to maintain with it a worship which our consciences reject.

"Theoretically, this article establishes an official church, without impeding the free exercise in the Republic of any other [form of] worship. In practice, the former is permitted to carry on worship in public places, and the rest only in their church buildings and private meeting-places. Based on this article, the Code of Education provides that teachers, paid from the public funds to which we contribute, teach in the public schools doctrines of the official church to which we do not agree. Our authority as parents is undermined, our children are taught dogmas which we reject and still we have to pay for it. In theory also, exemption from that sectarian teaching is granted to the one who solicits it; but in practice, the school becomes a place of torment for the unfortunate child whom this supposed right 'protects.'

"Those who ask that discrimination be made in favor of their church and against the others say that the former is the one in the majority. Being in the majority has nothing to do with rights and liberties that belong not to groups but to individuals. It suffices to notice that it is the Chapter on *Individual Guarantees* that is concerned here, [in order] to realize that there is no place in it for privileges for a group. Concerning public education, Theodore Parker says: 'The State is not for the few, nor even for the majority, but for all. It does not recognize classes, and therefore it does not protect them in any privilege.' According to Ralph Barton Perry, 'there is no deeper misunderstanding of the meaning of political democracy than to suppose that it means domination by the majority. The objective of the State is not the happiness of a majority of its members but of all.' In like manner, Thomas Jefferson says that 'the minority has its equal rights which laws are to protect, and that to violate them would be oppression.' In Latin America, Simón Bolívar declared that 'in a Political Constitution a profession of faith should not be prescribed'; José Martí, that 'the State cannot have religious principles, because it cannot impose itself upon the conscience of its members'; and in like terms [expressed themselves] Morelos, Sarmiento and many others.

"3. *Because it violates internationally established rights and international obligations of the Republic.*



"When the Universal Declaration of Human Rights, which every member State is obliged to respect and have carried out, was being discussed before the Plenary Assembly of the United Nations, Costa Rica not only approved it but gave it her most decided support. Before the pretensions of totalitarian Russia, [she, or Costa Rica] maintained that 'the liberty and the conscience of the individual are above all other things,' and that 'we will hotly oppose every proposition which tends to subordinate the interests and rights of man to any other [interests], regardless of how high their rank may be. The present case is exactly such [a proposition]. Our interests and rights, as men and as citizens of the Republic which made those declarations, are being subordinated to others which are of a very high order, but which cannot be placed before the liberty and the conscience of the individual. Not long ago, four European nations were denounced before the United Nations for making other interests prevail over human rights, but we cannot believe that our country which defended them [or: these human rights] will fall into like ignominy.

"Among the rights established by that Declaration, we cite as most pertinent Articles 1 and 2, which declare all men equal with one another and equally entitled to all those rights and liberties without distinction of color, sex, language or religion; article 7, which recognizes for all equal right, without discrimination of any kind, to equal protection of the law against any discrimination whatsoever which violates that Declaration; article 18, which secures to all the right to liberty of thought, conscience, and religion and [the liberty] of manifesting their religion or belief, in public or in private, separately or in union with others, by means of teaching, worship or customs; and article 28, which says that every person has the right to have established a social and international order in which these rights may become fully effective.

"In virtue of what has been set forth, we come with all respect and deference to ask:

"That the article objected to be omitted from the National Constitution and that in its place there be included one [or: an article] drawn up on the basis of Article 51 of the plan worked out by the Drafting [or Framing] Committee of 1949, or of Article 18 of the Universal Declaration of Human Rights, or of any other which establishes the same principle of full liberty of conscience, and of worship, and of equal religious rights for all men.

"We place this petition in the hands of the Honorable National Assembly for the Reform of the Constitution with the fervent prayer that the wisdom of the God of all justice may direct it in its deliberations."

[There followed more than 500 signatures.]

This petition failed of its purpose and a church has been recognized as a state church in Costa Rica.

**FIRST QUARTER**

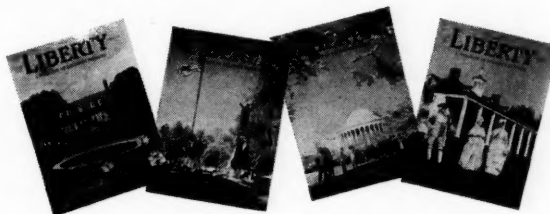


Someone has truly said that "it is the common fate of the indolent to see their rights become a prey to the active." Liberty is not offered on the bargain counter, even in our fair land. Far too many take it for granted. Liberty will be preserved only by our eternal vigilance. *Liberty: A Magazine of Religious Freedom* is working earnestly that the United States shall not go the way other nations have gone in respect to religious liberty.

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H. M. LAMBERT

## FREEDOM TO WORSHIP GOD

*By Nathaniel Krum*

Driven from home and from country,  
Hunted, imprisoned, and slain,  
God-fearing Pilgrims sought a shore  
That knew not tyranny's reign.

Here in a land unshackled,  
They founded for us a state  
Where freedom to worship God  
None could invalidate.

Out of the blessings and sorrows  
Their banner of faith was unfurled;  
They lighted a lamp of freedom  
That shone to the ends of the world.

And we in this age of peril  
Who travel this holy sod  
Must fuel the lamp they lighted—  
Freedom to worship God!

